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FOURTH ANNUAL REPORT 1978-79

EDUCATION RELATIONS COMMISSION

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Of
Ontario

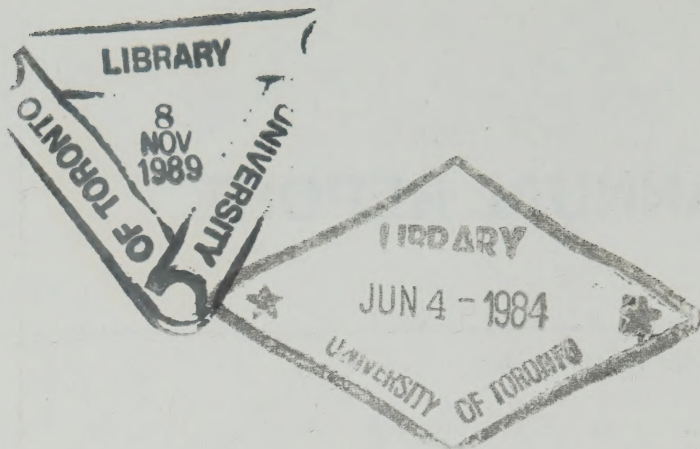
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FOURTH ANNUAL REPORT 1978-79

EDUCATION RELATIONS COMMISSION



Province
Of
Ontario



The Education Relations Commission was established by Section 60 of *The School Boards and Teachers Collective Negotiations Act, 1975*, to foster harmonious relations between school boards and teachers. The Commissioners are:

Owen B. Shime, Q.C., *Chairman*
George W. Adams, *Vice-Chairman*
Lita-Rose Betcherman
Gabrielle Levasseur
John C. Ronson

The Chief Executive Officer and Secretary to the Commission is G. R. Allan, who succeeded D. S. Lawless, effective November 1, 1978. The Commission's offices are located at 111 Avenue Road, Suite 400, Toronto, Ontario, Canada M5R 3J8.

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This Fourth Annual Report is for the period September 1, 1978 to August 31, 1979. Activities related to the renewal of agreements expiring on or after August 31, 1979 are not included.



Ontario

Education
Relations
Commission

Telephone 416/922-7679

111 Avenue Road
Suite 400
Toronto, Ontario
M5R 3J8

To: The Members of the Legislative Assembly
Province of Ontario

FOURTH ANNUAL REPORT
1978-79

Dear Members,

We have the honour to present the Fourth Annual Report
of the Education Relations Commission.

PART I INTRODUCTION

The Education Relations Commission was established in 1975 by the Lieutenant Governor in Council to supervise the collective bargaining between school boards and teachers. This Report will provide a summary of the various activities of the Commission during the period September 1, 1978 to August 31, 1979.

The Act provides for both an administrative and also a quasi-judicial function for the Commission to perform in bargaining between school boards and teachers and therefore it is appropriate that the members have the requisite capabilities to perform the functions anticipated in the legislation as well as having an understanding of the educational system in the Province. The Commission has developed policies and procedures that encourage the parties to work out their own agreements and relationships with a minimum of intervention. In saying this, the Commission recognizes its responsibility to assist the parties whenever necessary throughout the negotiation process.

At the outset of this Report, it is appropriate to express the appreciation of all concerned with the collective bargaining process to three people who have made a most significant contribution to the work of the Commission: Dr. Lita-Rose Betcherman, who served as a member since November 1975 and whose term ended August 28, 1979; and Mr. George W. Adams, the Vice-Chairman, who resigned on August 31, 1979 to assume the position as Chairman of the Ontario Labour Relations Board. The service that these two people have given, and the insights into the work of the Commission that they have provided, is acknowledged with gratitude. Mr. "Doug" D. S. Lawless retired as Chief Executive Officer on November 3, 1978. He had been involved in the debate and development of the legislation while a member of the Ministry and he became the first Chief Executive Officer of the Commission where he continued to provide outstanding leadership.

Many of the activities of the Commission are detailed later in this Report, but a few of the highlights will be of particular interest here.

1. The Commission, through its staff, was involved in a number of instances of preventive mediation, one of which is reported later in some detail. As parties reported an interest in working to improve the attitudes in the educational system and in the collective bargaining process, assistance was provided to them in pre-crisis and pre-bargaining situations in order to assist them in resolving problems that they were encountering.

2. The Commission was asked to make a significant determination regarding bargaining in good faith under the Act during the year. The branch affiliate representing the teachers on a Canadian Forces Base asked for the determination but the Commission was first asked to rule on its jurisdiction. The decision was significant because the Commission, as a preliminary matter, was required to rule on the constitutionality of the legislation as it applied to teachers working on Canadian Forces Bases. The decision also emphasized the quasi-judicial nature of the Commission's functions. That determination is reproduced in part as follows:

In our view and in our experience *The School Boards and Teachers Collective Negotiations Act* has both an educational dimension and a labour relations dimension. In its most simple terms one cannot have education without teachers and the hiring of teachers is integral to the education process. Moreover, if one analyzes with some care the subject matter of negotiations, it is almost impossible to separate the educational aspects from the labour relations aspects of bargaining. It is not all hiring and firing; the impact of collective bargaining on the educational process is a serious and substantial aspect of the whole process. That is not to say that *The School Boards and Teachers Collective Negotiations Act* and its application does not encompass matters that may be considered as pure labour relations issues—it does that, but an overview of the Act and how it has functioned or operated clearly indicates that it embraces both educational and labour relations matters.

We are further of the view that the order-in-council which created the schools in issue expressly recognized Provincial authority in this area when it provided that “The School shall be administered by the school board in accordance with the provincial act or acts respecting schools of the province in which the school is located”.

The Respondent submits that the establishment and administration of schools for the families of the members of the Canadian Forces is part and parcel of the efficiency, administration and good government of the Canadian Forces and is therefore a matter within the exclusive legislative competence of Parliament pursuant to Section 91 (7) of *The British North America Act*. We think not—the schools are separate and apart from the Canadian Forces. The Canadian Forces would continue to operate in the same manner whether or not the schools were present; either on a day-to-day operational basis or in pursuance of its more major ends the education of dependents is not essential or related.

The only purpose in providing a school is a convenience to families of members of the forces where those members have school age children. In many instances, no doubt, members of the force will not have school age children; in other instances local schools will suffice.

.....

But, even if the formation of the Board of Education does not fall within the ambit of *The Education Act* it is our view that it has sufficient status as created, to fall within the definition of a “board” pursuant to Section 1 (c) of *The School Boards and Teachers Collective Negotiations Act, 1975*.

We further determine that the nature of the funding cannot detract from the educational nature of this particular undertaking or service. That the funds are appropriated by the Parliament of Canada cannot

alter the fundamental nature of this educational institution so as to cause it to become a Federal undertaking or service.

Nor are the teachers crown employees. The order-in-council provides that "contracts for the employment of school staff shall be between the Chairman of the school board and the members of the school staff". None of the incidents usual to crown employees is present. Presumably the chairman acts as the representative of the school board which has the responsibility of administering the school. We infer that the employment relationship is between the board and the teachers and the teachers are employees of the board so that the employment relationship per se is covered by the provincial legislation. Not only does the order-in-council contemplate that provincial legislation shall govern, but the parties have governed their affairs in that manner. Needless to say we recognize that conduct per se cannot confer jurisdiction if it does not exist initially. However, we view the order-in-council and subsequent conduct as corroboration for the manner in which the Federal Government viewed the employment relationship and intended these schools to operate—and that is subject to and in accordance with Provincial legislation. The Respondent has not convinced us to the contrary and accordingly the preliminary objection is dismissed.

This decision is now under Judicial Review and the final decision will be significant in assessing the relationship between Provincial and Federal Governments concerning education.

3. The Commission also decided to extend the collection of data. Information regarding insured basic benefits and other plans has been collected by the Ministry of Education. With the cooperation of the Ministry and the concurrence of the parties this information will be made available to all parties to negotiations and to third parties appointed by the Commission. The totality of the data now available should provide a better basis for bargaining for the parties.

The Commission wishes to underline its impartial role in the collective bargaining process and to express its confidence in the increasing effectiveness of negotiations in the education sector. The high profile of the few problems in the process does not detract from the fact that the Act has provided benefit for both the parties and the public. The process under the Act continues to ensure a great deal more harmony in teacher-board negotiations than was the case before the Act was passed. There is a continuing commitment by the Commission to excellence in education and fairness to all who are involved.

The school system in Ontario has had a history of centralized influences over such key issues as who will teach, what to teach, and to what ends we teach. Even now, with considerable local autonomy there is still much more conformity than in the private sector and this is an important aspect in collective bargaining. The balance between such forces as the public's interest, the Government's responsibility, the interests of the teachers, the local accountability of the boards and the

quality of programs for students makes negotiating a very complex issue. Notwithstanding these forces there continues to be a large percentage of collective agreements negotiated locally with little or no outside assistance. In addition, there are an increasing number of multi-year contracts being concluded. There have been fewer sanctions in this year of reporting than in previous years. There are more examples of innovative negotiation strategies being attempted although the negotiations, as a whole, have been more protracted than in previous years because of the complexity of the issues.

In the end, however, teacher-board relations are basically human relations and the resolution of problems requires an appreciation of many complex and underlying factors. In a society where freedom is paramount, collective bargaining is a manifestation of that freedom and while reason predominates one cannot completely escape from conflict.

The Commission's primary function is to assist the parties by smoothing out some of the obstacles inherent in both the process and in the complex human relations involved in collective bargaining and to reduce the areas of conflict. In this regard it is important to note that over 98% of all agreements were settled peacefully in this reporting year and this despite the difficulties of declining enrolment, budget restraints and the numerous difficulties facing the educational system.

PART II COMMISSION ACTIVITIES

1. *Liaison Activities*

(a) Field Services

The Commission maintains its awareness of negotiations between teachers and school boards through its Field Services staff, each member being responsible for monitoring the negotiations in a specific region of the Province. This regular contact on a geographic basis, through phone contact and on-site visits, enables the individual Field Services officer to gain an understanding of the area in which collective bargaining is taking place and to become thoroughly familiar with the parties and the developments occurring in negotiations at the local level. In turn, the parties become better acquainted with the Commission's representative thus becoming more knowledgeable about the Act and the Commission's policies, procedures and resources. Through this exchange, progress reports are gathered, procedures under the Act are clarified, and direct assistance provided whenever such involvement is requested. In addition, Field Services staff are also responsible for ensuring that statutory requirements are fulfilled in the conducting and supervising of votes.

A particular advantage of this means of maintaining an awareness of negotiations between teachers and school boards concerns the formal appointments by the Commission of third-party assistance. In making judgments regarding the appropriateness of the appointment itself and of the individual to be named as

mediator or fact finder in any given area, the Commission has been able to rely on the first-hand information and advice of its Field Services staff. It must also be noted that parties are increasingly requesting the staff member assigned to their area to fulfill a mediation function. This practice results in a less formal kind of third-party assistance during the negotiating process.

(b) Research

Liaison with the parties is further maintained through the Research Services staff of the Commission who gather and provide relevant information to assist parties in their negotiations both through the issuance of a variety of publications and by responding to enquiries from members of branch affiliates and school boards, their central affiliates and associations, and persons appointed in accordance with the Act.

Information—The cornerstone of the Commission's information base is the set of approximately 200 written collective agreements negotiated annually. A variety of information related to salaries, fringe benefits and working conditions has been extracted from these agreements and added to a computerized data bank, which is updated to facilitate high-speed retrieval in order to respond quickly to requests from negotiators and other involved persons. During 1978-79, Commission staff processed in excess of 1,000 requests for information.

All collective agreements, public fact finding reports, arbitration awards, and final offer selections are available in the Commission's Reference Library.

Publications—A variety of information publications were issued by the Commission during the 1978-79 year and made available to all parties through regular mailings and to others expressing an interest on a request basis (see Appendix B). Topics dealt with included cost-of-living, surplus/redundancy, insured fringe benefits and final offer selection. Additionally, a new publication entitled Grievance Arbitration was initiated and provides summaries of awards arising from differences between the parties concerning the application, interpretation, administration or alleged contravention of written collective agreements.

Computer Access—Teacher and trustee organizations at the provincial level continue to have direct access to the Commission's computerized agreement information files. During 1978-79, several local school boards have also linked up with this facility.

Information Survey—During the spring of 1979, the Commission forwarded a questionnaire to each party in an attempt to assess the level of awareness of the Commission's information services, the degree to which these were being utilized, indications as to the service's value, and to develop improvements in its current informational activities. The survey's response rate was 50% with one-half of the respondents providing additional information through open-ended comments. The results of this survey, while basically positive, indicated that the parties were desirous of becoming better informed of both the general progress of negotiations and the resources available from the Commission. In an attempt to meet these

needs, several initiatives were considered for implementation during the 1979-80 round of negotiations including the following:

- To provide on a more frequent basis a statistical summary of the contents of collective agreements which have been filed with the Commission.
- To inform the parties of the current status of negotiations, including third-party involvement (fact finding, mediation, arbitration and final offer selection), the conduct of votes, sanction activity, and settlements.
- To report on the activities of the Commission and the resources available from the Field Services and Research Services staff, including third party assistance, workshops, receipt of awards and reports, and recent and forthcoming ERC publications.

(c) Further Contact with the Parties

Contact between the teachers and trustees and the Commission was maintained in several other ways than those outlined in (a) and (b) above.

Informal meetings continued to be held with both provincial and local representatives in order to explain existing or revised Commission policies and procedures, to report upon the Commission's various on-going activities, and to obtain opinions concerning the general operations and possible future directions of the Commission.

Commission staff continued to welcome and respond to all requests for assistance and information, elaborated upon in the two preceding sections. In addition, the staff attended, by invitation, various workshops sponsored by teachers' and trustees' organizations throughout the province.

During the current reporting year, the series of workshops begun in 1977-78 for teachers and trustees at the local level was extended to the remaining areas of the province with sessions being held in St. Catharines, London and Ottawa. The focus of these workshops was to provide the parties with a better working knowledge of the Act and the role of the Commission in relation to it.

Finally, an integral part of the collective bargaining process is the part played by the administrators of the school systems. During 1978-79, twenty-one new directors were appointed throughout the province. To familiarize these new people with the activities of the Commission, a one-day seminar was held at which a number of experienced directors served as resource people.

2. *Selection and Training of Commission Appointees*

(a) Selection

The Commission continued to seek individuals whose background, experience and understanding of collective bargaining in education renders them eligible to provide the kinds of third-party assistance necessary in negotiations between

teachers and school boards. This search has resulted in a corps of people being identified who bring to the process a range of backgrounds which include business, law and education.

(b) Training

During the year, the Commission continued to sponsor training programmes for third-party neutrals.

The training of potential fact finders occurred in two phases. Early in the reporting year a one-day seminar was held during which participants were informed of the services of the Commission and the process of fact finding. The second phase of this training involved appointing many of these individuals as assistants to experienced fact finders who had been assigned to particular jurisdictions.

In addition, a two-day seminar was held for interested potential fact finders and for experienced fact finders interested in becoming mediators. The purpose of this session was to reinforce their understanding of the fact finding and mediation processes. The various activities of this seminar provided many opportunities to gain a greater understanding of school business and finance, to examine more closely the mediation process through role-playing, and to exchange views with people having a wide range of backgrounds and experience in the processes.

During each of these training sessions, experienced individuals were present to provide relevant insights into the negotiating process and to answer questions based on their personal experiences in collective bargaining.

3. *Analysis of the Fact Finding Process*

During 1978-79, a survey of the parties experiencing fact finding was conducted by the Commission's Research Services staff. This survey was similar in nature to, and thus represented a comprehensive update of, a similar study undertaken in 1976-77. Although the results of this survey are still being consolidated, preliminary findings indicate that

a majority of both the teacher and trustee representatives responding to the 1978-79 ERC survey on fact finding were in favour of fact finders offering recommendations in their reports;

a large majority of the parties claimed to have experienced meaningful bargaining prior to the appointment of a fact finder and thus the existence of mandatory fact finding after the expiration of a collective agreement was deemed not to have adversely affected bargaining;

positive local trustees and teacher evaluations of fact finding have increased over the last four years. In more than six out of every ten appointments, at least one, and sometimes both, of the parties felt the fact finding process had been effective in assisting them to reach a settlement. In a few situations, the parties felt a strike may have ensued if fact finding had not been undertaken; and

there was no consistent or significant evidence to suggest that fact finding increases the likelihood of teachers receiving higher increases on the salary grid or gaining an increased number of concessions from the boards than other teacher negotiating groups who settle without third-party assistance.

4. Preventive Mediation

During the reporting year, a number of the parties experiencing a history of difficulty in the collective bargaining process indicated an interest in improving their relationships and communication skills. In response to this interest, the Commission began to offer a service referred to as preventive mediation.

An example of this activity occurred in the Essex County Roman Catholic Separate School Board system when the parties jointly requested such assistance. The Commission appointed Dr. David Tough, formerly a director of the North York Board of Education. Through a series of meetings, Dr. Tough was able to assist the parties to establish a better relationship with each other and to thereby improve the climate for negotiations.

Testimony to the success of this process is evidenced by the parties agreeing to obtain a settlement by a specified date and doing so early in the negotiating process.

5. Grievance Arbitration Appointments

Upon occasion, differences between parties arise from the interpretation, application, administration or alleged contravention of an agreement. While the **Act does not require Commission involvement in the resolution of a grievance**, negotiated grievance procedures in some written agreements specify that the Commission be asked to appoint a single arbitrator or chairman of an arbitration board to resolve the grievance at the final and binding step of the procedure. In all other cases, should the parties not agree on the choice of this individual, the Commission is obliged to make the appointment.

Table 1 shows that during 1978-79 the Commission made 13 such appointments. Four of these appointments were single arbitrators and nine were chairmen of arbitration boards.

TABLE 1
APPOINTMENTS CONCERNING GRIEVANCE
ARBITRATIONS, 1978-79

Board Classification	Number of Appointments By ERC	Nature of Appointments
Boards of Education —Elementary	3	Two Single Arbitrators and one Chairman of a Board of Arbitration
Boards of Education — Secondary	7	Chairman
County and District Combined Roman Catholic Separate School Boards	2	One Chairman, one Single Arbitrator
Other School Boards	1	Single Arbitrator
Total	13	

6. *Advice to the Lieutenant Governor in Council*

During the 1978-79 agreement year, the Commission offered no advisements to the Lieutenant Governor in Council under Section 61(1)(h) of the Act.

7. *Other Commission Decisions/Determinations*

The Commission was asked to make a determination in 1978-79 concerning the appointment of a fact finder in the negotiations between the Board of Education for the City of Windsor and District 1 of the Ontario Secondary School Teachers' Federation. The request arose because neither the fact finding process of the preceding year nor subsequent mediation resulted in a settlement being concluded for the 1977-78 agreement year; the teachers were in a legal position to commence a strike under the Act. However, no strike action was initiated nor did the parties jointly agree to resolve their differences through a form of third-party resolution by August 31 of 1978. In effect, the parties had operated without a written collective agreement for the 1977-78 year.

The issue before the Commission was whether to appoint a fact finder in September 1978. The Commission's determination not to appoint a fact finder was arrived at on the following grounds:

In our view, collective bargaining is an ongoing process which is intended to define the relationships between the boards and their teachers and to articulate the wages and working conditions in the school system. It is usual for the relationship to develop in an orderly and chronological manner with each new set of negotiations being dependent upon or naturally flowing from the negotiations and the agreement which preceded. In this case it is very difficult to either articulate or develop any relationship from the 1978-79 school year because the normal prior step in the relationship has not yet been defined by a written agreement for the 1977-78 school year. There is really an unsatisfactory point of departure for a fact finder to make an assessment. Accordingly, we have some doubt that a fact finder would be helpful to the parties bearing also in mind that a fact finder's report in the previous year was not utilized by the parties to renew their agreement. And, in these circumstances, we are doubtful that such a report would assist the public.

Also, the appointment of a fact finder for the 1978-79 collective agreement by itself would create a very serious legal anomaly or contradiction in the legislation and it is perhaps one that will eventually require amendment by the Legislature. If we were to appoint a fact finder, it could be argued that there could not be a strike because the appointment of a fact finder would have triggered the operation of Section 64 (c) which would require not only the time periods in the section to elapse but votes on the last offer as well as a strike vote before teachers could go out on strike. At this point in time the teachers, as of right, may serve notice to strike under the Act and withdraw their services in a manner contemplated by the Act. The anomalous position created by the appointment of a fact finder would be to prohibit the teachers going out on strike for the 1978-79 school year because the pre-conditions of Section 64 have not been satisfied, while at the same time allowing them to go out on strike for the 1977-78 school year because the pre-conditions for strike under the Act for the school year have been satisfied. Thus, it is apparent that the legal position of the teachers engaging in a strike may become questionable and, accordingly, the sections of the Act which have created an orderly procedure prior to strike might be defeated by the appointment of a fact finder. We are hesitant to create such an anomaly in the appointment of a fact finder.

As a practical matter the defining of the relationship for the 1978-79 year is so related to the 1977-78 negotiations that the two school years for the purpose of negotiations cannot be readily divided. Undoubtedly the 1978-79 negotiations would be inextricably interwoven with the 1977-78 collective agreement and, at this point in time, it is very difficult to imagine a settlement that would not involve collective agreements for 1977-78 as well as 1978-79. It is also apparent that until the terms for the 1977-78 collective agreement are resolved

meaningful negotiations will be difficult to carry out with respect to the 1978-79 collective agreement. In effect, it is likely that any impasse that has been reached is really an extension of the impasse arrived at for the 1977-78 year, and the legal procedures for that year as contained in the Act have not as yet been exhausted.

Since the Commission has fulfilled its obligation with respect to the 1977-78 year, and since the teachers still have rights and privileges under the Act that are outstanding, and in the absence of any evidence to indicate that meaningful negotiations with respect to 1978-79 either have or could have taken place, we are not prepared to conclude that an impasse has been reached in accordance with Section 15(b).

It is also significant that while the Board suggests that there is an impasse no request has been made by either party indicating that such is the case. The appointment of a fact finder after an impasse may be made in one of two ways. It may be made at the request of either of the parties or where the Commission forms an opinion that an impasse has been reached.

The Commission has indicated a firm obligation on the parties to conduct their own negotiations and has also indicated that it is the parties themselves that are initially responsible for their negotiations and their collective agreements. The Commission does not feel that it is either wise or appropriate to intervene unless it becomes absolutely necessary to do so. Accordingly, if a party feels that there is an impasse there is obligation on its part to make an application to the Commission under Section 15 (a). The Commission is of the opinion that its power or authority to appoint a fact finder under Section 15 (b) is one that should be used sparingly, and where a party requests the Commission to appoint a fact finder there is some onus on the party if it feels that an impasse has been reached to indicate why it has not made the application. Accordingly, in these circumstances, absent any explanation by the parties suggesting that the Commission appoint a fact finder, we find no reason to act on our own to make such an appointment.

We now turn to the remaining portion of Section 15 which was not argued notwithstanding our request which did not limit argument to Section 15 (b). In our view, there is a more fundamental reason for not appointing a fact finder and that is because the whole of Section 15 appears to be conditioned by the first portion of the section which states that "The Commission shall appoint forthwith a person as a fact finder during negotiations to make or renew an agreement. . ." under certain conditions. It is apparent that we are not faced with negotiations to "make" an agreement, but rather the issue here is whether an agreement should be "renewed". In our view the section contemplates a single fact finding appointment where an agreement is to be renewed. In the factual situation that we are confronted with there was

an appointment made during negotiations to renew an agreement. Once an appointment is made our power to appoint is exhausted and there is no further right or obligation to make a second appointment. Section 15 of the Act speaks of renewing an agreement, in the singular; it does not contemplate making a second appointment where the parties have failed to renew their agreement and have operated for more than one year without renewing their agreement. It would appear then that since we have appointed a fact finder to renew an agreement that we have fulfilled all the obligations that are required of us under the Act and, accordingly, there is no further duty to appoint a fact finder.

PART III THE NEGOTIATING PROCES

1. *The Parties*

During 1978-79, approximately 108,000 Ontario teachers negotiated the terms and conditions of their employment under the provisions of the Act. The numbers of school boards and branch affiliates by type, and the number of teachers employed by those boards are summarized in Table 2 below.

TABLE 2

NUMBER OF SCHOOL BOARDS, BRANCH AFFILIATES AND TEACHERS IN ONTARIO, 1978-79

Board Classification	Number of Boards	Number of Branch Affiliates				
		FWTAO	OPSMTF	OECTA	AEFO	OSSTF
Boards of Education	76*	76	76	—	23	76
Metropolitan Toronto School Board*	1	1	1	—	—	—
County and District Combined Roman Catholic Separate School Boards	48	—	—	47	35	—
Other Public School Boards	32	4	7	—	—	—
Other Separate School Boards	13	1	1	5	5	—

Secondary School Boards	1	—	—	—	—	1
Boards on Crown Lands, Hospital and Hydro Centres, and the Provincial Schools Authority	23	8	8	—	—	2
Total	194	90	93	52	63	79
Number of Teachers	107,480	31,016	14,857	19,309	5,515	36,783

*The Metropolitan Toronto School Board which operates schools for the trainable retarded does not operate elementary and secondary schools as such; however, its teachers are members of the elementary school branch affiliates, F.W.T.A.O. and O.P.S.M.T.F.

2. *Renewals under the Act*

The 194 school boards and 377 branch affiliates, referred to in Table 2, conducted 207 sets of negotiations during 1978-79 as indicated in Table 3 below. It should be noted that the number of negotiations during any given year can vary depending upon (a) the number of parties serving notice of their intention to negotiate new or renewed agreements and (b) the year in which the existing agreement expires.

TABLE 3
STATUS OF NEGOTIATIONS, 1978-79

Board Classification	Not Subject to Negotiation*	Subject to Negotiation**
Boards of Education —Elementary	8	68
Boards of Education —Secondary	4	72
County and District Combined Roman Catholic Separate School Boards	4	44
Other School Boards	1	23
Total	17	207

*Concluded multi-year settlement during the 1977-78 agreement year.

**The parties are not required to re-negotiate an expiring agreement. The agreement remains in effect until one party files notice with the other party, during the month of January, of its desire to negotiate.

3. *The Duration of Agreements*

Table 4 gives a breakdown of the duration and termination dates of settlements reached during 1978-79.

TABLE 4
DURATION AND TERMINATION DATES OF
SETTLEMENTS CONCLUDED IN 1978-79

Board Classification	Not Settled	1 Year Aug. 31/79	2 Years Aug. 31/80	3 Years Aug. 31/81
Boards of Education				
— Elementary	2	55	11	—
Boards of Education				
— Elementary	2	50	18	2
County and District				
Combined Roman				
Catholic Separate				
School Boards	—	38	6	—
Other School Boards	—	22	1	—
Total	4	165	36	2

The 36 two-year and 2 three-year agreements represent a record number of multi-year settlements concluded during any one year since the inception of the Act. The largest previous total of multi-year agreements was 17 in 1977-78. This development may in part be due to the termination of the federal wage and price control programme as well as to a longer-term bargaining perspective which an increasing number of parties seem to be developing.

4. *Persons Appointed to Assist*

Persons appointed to assist the parties in negotiations, frequently referred to as mediators, can be appointed at any time, either at the discretion of the Commission or, with Commission concurrence, at the request of one or both of the parties. In addition to these formal appointments, Field Services staff often provide assistance of this kind during the course of their normal activities.

A common factor in the many forms of assistance mediators provide is the amelioration of those difficulties between the parties preventing their reaching a

negotiated settlement. This assistance is less formal than fact finding, discussed in the next section, in that there are no prescribed time frames, written reports or recommendations. This is in keeping with the intent of the Act to provide parties with outside assistance either prior to the hardening of positions, or after the required fact finding process, as a viable alternative to the imposition of sanctions as a means of settlement. As with all other forms of third-party involvement, such assistance is terminated immediately upon the parties reaching an agreement.

Table 5 describes the mediation experience during 1978-79.

TABLE 5
ASSIGNMENT OF MEDIATORS, 1978-79

Board Classification	No. of Situations Negotiated	No Mediation	Mediation Only	Mediation Pre Fact Finding Only	Mediation Post Fact Finding Only	Mediation both Pre and Post Fact Finding
Boards of Education						
—Elementary	68	45	4	2	17	—
Boards of Education						
—Secondary	72	37	3	5	21	6
County and District						
Combined Roman						
Catholic Separate						
School Boards	44	32	2	—	7	3
Other School Boards	23	21	—	—	2	—
Total	207	135	9	7	47	9

Seventy-two (34.8%) of the 207 sets of negotiations involved formal mediation, an increase over 1977-78 (58 of 210 situations or 27.6%). The overall increase in mediation appointments over this two-year period is accounted for by the significant change in mediation after fact finding—47 in 1978-79 as contrasted to 24 in 1977-78.

Given that more situations entered fact finding in 1978-79 than in any previous year, this resulting increase in mediation was not unexpected. It should also be noted that, during negotiations an added emphasis is being placed on matters related to working conditions and job security, items perhaps not as amenable to solution as those related to compensation.

Comment has previously been made in this Report about a specific type of assistance to the parties referred to as preventive mediation. The Commission has, on several occasions, taken the initiative in this regard in situations where all concerned recognize that a review of their basic relationship and communication patterns in an away-from-the-bargaining-table atmosphere would be of value in future negotiations.

5. *Fact Finding*

Fact finding affords an opportunity for the parties to clarify and, hopefully, resolve whatever differences exist between them in order to reach a settlement prior to the expiry of their present agreement. The process becomes mandatory once this date has passed. Further, it is a necessary procedure before teachers can take strike action or a school board can initiate a lock-out. The fact finding process also recognizes the public's right to know what the issues are and to be made aware of each party's position with respect to these issues prior to any possible interruption of the normal school programme.

The Commission may appoint a fact finder at any time during the negotiations either upon the request of one or both parties or if the Commission deems that the parties are at an impasse and would benefit from such assistance. The fact finder, a third-party neutral, investigates a particular local situation and writes a report. A time limit is established for the fact finder to meet with the parties, examine their written materials, listen to verbal submissions and submit a report to the Commission who, in turn, distributes it to the parties. The report must set out those matters upon which the parties have agreed as well as those upon which they have not agreed. A fact finder may make recommendations regarding the items in dispute but these are not binding upon the parties.

Once the parties receive the report they have a 15-to-20-day period in which to reach a settlement. If an agreement is not negotiated during this time, the report is made public. Should the parties reach settlement at any time during fact finding, the process is automatically terminated.

A provincial overview of fact finding for the 1978-79 agreement year is shown in Table 6. The appointments of fact finders dramatically increased from 1977-78 (63 of 210 or 30%). Of the 207 sets of negotiations during the 1978-79 agreement year, 114 (55.1%) required this type of assistance. As in previous years, virtually all fact finder appointments were made pursuant to Section 15(c) of the Act.

Reports released to the parties remained constant at approximately 85% while the proportion made public declined from 67% in 1977-78 to 61% in 1978-79.

There are a number of possibilities which might have contributed to the increased use of the fact finding process. These are:

- the removal of the federal wage and price controls programme;

TABLE 6
NUMBER OF FACT FINDER APPOINTMENTS.
REPORTS RELEASED TO PARTIES. AND REPORTS MADE PUBLIC
1978-79

Board Classification	Number of Boards where Fact Finder Appointed	Report Released to Parties	Report Made Public
Boards of Education			
—Elementary	39	28	21
Boards of Education			
—Secondary	50	46	32
County and District Combined Roman Catholic Separate School Boards	21	19	14
Other School Boards	4	2	2
Total	114	95	69

the increased importance of job security and working condition items in negotiations;

the occurrence of a school board introducing its “demands” rather than adopting the more traditional role of reacting to those of the teachers;

the lack of any meaningful negotiations in some situations prior to the fact finder’s appointment required by legislation once the term of an agreement has expired;

an absence in some situations of perceiving the fact finding process not as a means of resolving outstanding items but, rather, as a necessary ritual;

the attitude that in order to indicate to one’s constituents that this is the “best” settlement possible, all the forms of assistance available under the Act should be employed.

6. *Determination of Good Faith Bargaining*

Table 7 reveals that eight bad faith bargaining charges were filed with the Commission during 1978-79, representing a significant increase from the two applications filed in 1977-78.

TABLE 7
BAD FAITH BARGAINING SITUATIONS, 1978-79

Complainant	Respondent	Disposition
Branch Affiliate of O.S.S.T.F.	Canadian Forces Base Borden Board of Education	Upheld
Branch Affiliates of A.E.F.O. & O.S.S.T.F.	Niagara South Board of Education	Terminated
Branch Affiliate of O.S.S.T.F.	Ft. Frances-Rainy River Board of Education	Terminated
Branch Affiliate of O.S.S.T.F.	Board of Education for Borough of North York	Terminated
Branch Affiliates of A.E.F.O. & O.S.S.T.F.	Niagara South Board of Education	Terminated
Branch Affiliates of F.W.T.A.O. & O.P.S.M.T.F.	Peel Board of Education	Pending
Branch Affiliate of O.S.S.T.F.	Board of Education for Borough of York	Terminated
Branch Affiliate of O.S.S.T.F.	Stormont, Dundas & Glengarry Board of Education	Pending

7. *Voluntary Binding Arbitration/Final Offer Selection*

The parties may jointly choose one of two options involving third-party resolution: voluntary binding arbitration or final offer selection. If a negotiated settlement is reached at any time during these procedures, the process is then terminated. Table 8 indicates the incidence of both during the reporting period.

(a) Voluntary Binding Arbitration

Seven agreements were concluded during 1978-79 through voluntary binding arbitration. This contrasts with six agreements reached by this form of third-party resolution during 1977-78. Only one of the sanction situations occurring during 1978-79 adopted this form of resolution.

The parties have the option of a single arbitrator or a three-person board of arbitration and can appoint either the arbitrator or the chairman if they mutually agree upon who this individual will be.

Of the seven situations occurring during the reporting year, three had a single arbitrator with the remaining four having an arbitration board. The Commission made the appointment of the arbitrator or chairman in four instances.

TABLE 8
 AGREEMENTS REACHED BY VOLUNTARY BINDING
 ARBITRATION OR FINAL OFFER SELECTION, 1978-79

Board Classification	Agreements Reached by Voluntary Binding Arbitration	Agreements Reached By Final Offer Selection
Boards of Education		
—Elementary	1	—
Boards of Education		
—Secondary	6	1
County and District		
Combined Roman		
Catholic Separate		
School Boards	—	—
Other School Boards	—	—
Total	7	1

(b) Final Offer Selection

Under this resolution procedure, first introduced legislatively in Ontario under the Act, each party's final position concerning the items remaining in dispute, together with any supporting evidence, is presented to a selector and the other party within 15 days of his appointment. The parties may then provide written responses to the other party's position and the selector may hold a hearing or hearings.

Within 15 days of any hearing(s) (or notice from parties to dispense with hearings), the selector must choose one party's final offer in its entirety. This offer is then incorporated into an agreement, which also includes those items agreed to by the parties during negotiations.

During 1978-79 one settlement was reached through final offer selection (see Table 8 above), with the teachers' final offer selected. This compares with two selections in 1977-78, the final offer of the teachers being selected in each case.

8. *Supervised Votes: Last Offer, Strike and Ratification*

Prior to any strike activity, the teachers must first request in writing the board's last offer concerning all matters agreed upon and all matters remaining in dispute. A secret ballot vote on the board's last offer must then be conducted under the Commission's supervision. If the teachers reject this offer, a second secret ballot vote to determine whether the teachers favour a strike is then held, again under the supervision of the Commission.

Table 9 indicates the breakdown of votes supervised by the Commission.

TABLE 9
SUPERVISED BOARD'S LAST OFFER, STRIKE
AND RATIFICATION VOTES, 1978-79

Board Classification	Board's Last Offer Votes	Strike Votes	Ratification Votes
Boards of Education			
—Elementary	1	1	—
Boards of Education			
—Secondary	9	4	2
County and District			
Combined Roman			
Catholic Separate			
School Boards	3	2	—
Other School Boards	1	1	—
Total	14	8	2

During 1978-79 the Commission was called upon to supervise 14 votes by teachers on a school board's last offer and 8 votes on strike action compared with 15 last offer votes and 12 strike votes during 1977-78. The Commission also supervised two ratification votes on agreements made after the commencement of a strike.

9. *Strikes, Lock-Outs and School Closings*

Three of the eight strike votes taken during 1978-79 resulted in teachers going on strike. Details of these sanctions are provided in Table 10.

The three situations in which a sanction occurred contrasts to six during the 1977-78 year. In Kirkland Lake Secondary the strike and lock-out marked the second time these parties have employed sanctions; the first instance was during 1975-76.

The York County Secondary sanction terminated in early September of 1979 just after the end of the period covered by this Report.

10. *Legislated Settlements*

None of the situations where sanctions occurred was terminated by Acts of the Ontario Legislature during 1978-79.

TABLE 10
STRIKES, LOCK-OUTS AND SCHOOL CLOSINGS
SEPTEMBER 1, 1978 TO AUGUST 31, 1979

Board	Number of Schools	Number of Teachers in Branch Affiliate(s)	Number of Students Affected	Type of Sanction	Duration of Sanction	Final Settlement
Haldimand Secondary	4	180	2,899	Withdrawal of services	March 29/79- May 22/79 (36 instructional days)	Negotiated
Kirland Lake Secondary	1	86	1,429	Work-to-rule Lock-out	May 15-21/79 May 22-June 26/79 (4 and 26 instructional days, respectively)	Voluntary Binding Arbitration
York County Secondary	15	968	16,274	Work-to-to-rule	June 27/79-August 31/79	Not Settled

All of which is respectfully submitted.

A handwritten signature in cursive script, reading "Owen B. Shime".

Owen B. Shime, Q.C.
Chairman

A handwritten signature in cursive script, reading "George W. Adams".

George W. Adams,
Vice-Chairman

A handwritten signature in cursive script, reading "Lita-Rose Betcherman".

Lita-Rose Betcherman,
Commissioner

A handwritten signature in cursive script, reading "Gabrielle Levasseur".

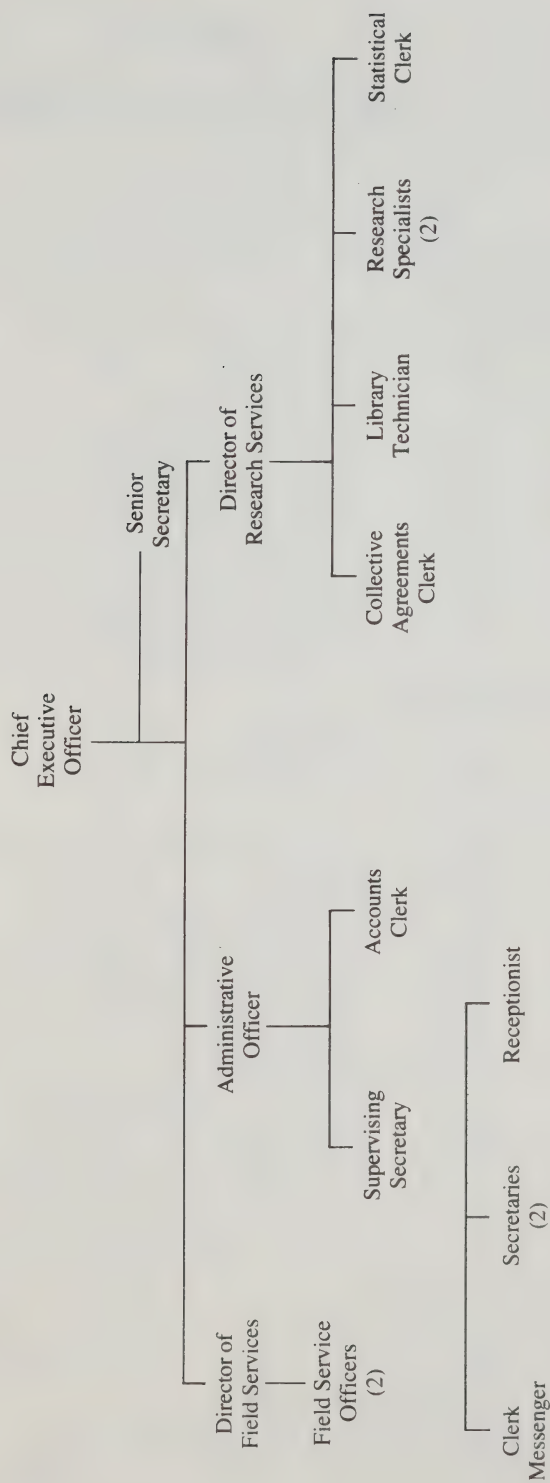
Gabrielle Levasseur,
Commissioner

A handwritten signature in cursive script, reading "John C. Ronson".

John C. Ronson,
Commissioner

APPENDIX A

STAFF ORGANIZATION Education Relations Commission



APPENDIX B

PUBLICATIONS AVAILABLE FROM THE EDUCATION RELATIONS COMMISSION*

Teacher/Board Collective Agreements:

- Individual Summaries for 1976-77; 1977-78; 1978-79; 1979-80
- A Provincial Overview for 1975-76; 1976-77; 1977-78; 1978-79

Collective Bargaining Information: A Bibliography of Selected Data Sources

Monograph Series:

- | | |
|--------|---|
| No. 1 | Cost-Of-Living |
| No. 2 | Dental Plans |
| No. 3 | Group Insurance Plans |
| No. 4 | Long-Term Disability Plans |
| No. 5 | An Examination of Fact Finding, 1976-77 |
| No. 6 | Insured Fringe Benefits |
| No. 7 | Miscellaneous, Compassionate/Bereavement Leaves |
| No. 8 | Weighted On-Grid Average Salaries |
| No. 9 | Retirement Gratuities |
| No. 10 | A Report on Fact Finding, 1975-78** |
| No. 11 | Insured Fringe Benefits, 1978-79** |

Bibliography Series:

- | | |
|-------|-------------------------|
| No. 1 | Fact Finding |
| No. 2 | Mediation |
| No. 3 | Final Offer Selection** |

Clause File Series:

- | | |
|--------|---|
| No. 1 | Management Rights |
| No. 2 | Class Size |
| No. 3 | Pupil Teacher Ratio |
| No. 4 | Instructional Load: Principals and Vice-Principals |
| No. 5 | Instructional Load: Teachers |
| No. 6 | Non-Instructional Load Provisions |
| No. 7 | Surplus/Redundancy |
| No. 8 | Related Experience |
| No. 9 | Vacancy and Transfer Provisions** |
| No. 10 | Pupil-Teacher Ratio, 1977-78** |
| No. 11 | Staff Allocation Provisions, 1977-78** |
| No. 12 | Surplus/Redundancy, 1978-79** |
| No. 13 | Cost Of Living Provisions, 1978-79** |

Teacher Placement: Grid Distributions of Ontario Teachers, Total Staff and Enrolment**

Grievance Arbitration: Summaries of Arbitration Decisions arising out of differences between the parties under *The School Boards and Teachers Collective Negotiations Act, 1975*.

* Note: Commission publications are, with one or two exceptions, published in both French and English.

** Issued during 1978-79 year.

APPENDIX C

STATEMENT OF EXPENDITURES
APRIL 1, 1978 — MARCH 31, 1979

CATEGORIES	BUDGET	TOTAL	ACTUAL EXPENDITURES	TOTAL
SALARIES & WAGES	\$349,610		\$349,603	
EMPLOYEE BENEFITS	56,300	\$405,910	56,274	\$405,877
TRANSPORTATION & COMMUNICATIONS				
Communications	6,000		8,136	
Mailing	7,000		13,153	
Relocation			9,749	
Express, Freight	1,000		1,130	
Travel — Commission Staff	24,800		25,150	
Travel — Other	30,000	68,800	62,039	119,357
SERVICES				
Advertising	2,400		1,141	
Rental of Equipment	5,000		6,393	
Data Processing	20,000		16,522	
Housekeeping			415	
Conferences	10,000		3,364	
Special Services	101,290		22,050	
Honoraria — Commission	30,000		25,508	
Professional Services	183,100			
Fact Finders			77,477	
Mediators			106,957	
Other			9,058	
			<u>193,492</u>	
Building Maintenance	500		—	
Equipment Maintenance	1,000		399	
Inter-Branch Transfers		353,290	122	269,406
SUPPLIES & EQUIPMENT				
Furniture	1,000		101	
Accessories	500		53	
Personal Goods	500		—	
Printing & Supplies	25,000		56,368	
Misc. Goods & Utilities	1,500		767	
Inter-Branch Transfers	3,000		1,849	
Recoveries		31,500	(1,211)	57,927
TOTALS		<u>\$859,500</u>		<u>\$852,567</u>

APPENDIX D

Summary of negotiations, 1978-1979

Negotiations conducted in accordance with the Act during 1978-79

Total number of negotiations conducted by boards and teachers in Ontario	207
Number of negotiations not requiring formal Commission assistance	84
Number of fact finders assigned	114*
Number of situations where mediator assigned	72
Settlements by voluntary binding arbitrations	7
Settlements by voluntary final offer selection	1

*Note: In some sets of negotiations both a fact finder and a mediator were assigned.

FIFTH ANNUAL REPORT 1979-80

EDUCATION RELATIONS COMMISSION

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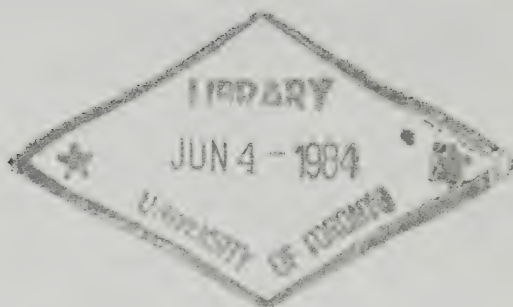
Province
Of
Ontario

FIFTH ANNUAL REPORT 1979-80

EDUCATION RELATIONS COMMISSION



Province
Of
Ontario



The Education Relations Commission was established by Section 60 of *The School Boards and Teachers Collective Negotiations Act, 1975*, to foster harmonious relations between school boards and teachers. The Commissioners are:

Bryan M. Downie, *Chairman*
Brian P. Bellmore, *Vice-Chairman*
Gail Brent
Gabrielle Levasseur
John C. Ronson

The Chief Executive Officer and Secretary to the Commission is G.R. Allan. The Commission's offices are located at 111 Avenue Road, Suite 400, Toronto, Ontario, Canada M5R 3J8.

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This Fifth Annual Report is for the period September 1, 1979 to August 31, 1980. Activities related to the renewal of agreements expiring on or after August 31, 1980 are not included.

Ontario

Education
Relations
Commission

Telephone 416/922-7679

111 Avenue Road
Suite 400
Toronto, Ontario
M5R 3J8

To: The Members of the Legislative Assembly
Province of Ontario

FIFTH ANNUAL REPORT
1979-80

Dear Members,

We have the honour to present the Fifth Annual Report
of the Education Relations Commission.

PART I INTRODUCTION

The Education Relations Commission was established in 1975 by the Lieutenant Governor in Council to supervise the collective bargaining between school boards and teachers. This Report will provide a summary of the various activities of the Commission during the period September 1, 1979 to August 31, 1980.

Mr. Owen B. Shime resigned as Chairman of the Commission, October 31, 1979. During the four years he was the Chairman, Mr. Shime was instrumental in establishing:

- an independent information system
- administrative policies and procedures
- training programs for neutrals
- a body of quasi-judicial resolutions

Mr. Shime has played a significant role in bringing negotiations in the education sector to a level of sophistication that could not have been predicted in 1975.

The Lieutenant Governor in Council filled three vacancies on the Commission. (Two Commission members resigned late in the previous reporting year.) Dr. Bryan M. Downie, a professor from Queen's University, who has written the definitive study of bargaining in the Ontario Education sector was appointed Chairman. Brian P. Bellmore, a Toronto lawyer, was appointed Vice-Chairman, and Mrs. Gail Brent, a London lawyer and arbitrator, was appointed a Commission member.

The following are highlights of the Commission's activities:

1. The Education Relations Commission made a written and an oral presentation to the Matthews Commission which was established by the Minister of Education to review the negotiation process under The School Boards and Teachers Collective Negotiations Act, 1975. In its report the Matthews Commission made 49 recommendations. The main features of this report indicate a commitment to the present negotiating process, a modification of the balance of power between the parties and the need for new initiatives in the bargaining process. The Minister has indicated that there will be a revision in the Act.

2. The Education Relations Commission held two training sessions for third party neutrals who will be used to assist the parties. The people who have been recruited are from a variety of backgrounds. Four are former teacher-negotiators, three are former trustees or administrators, eight are academics specializing in this field, and eight are lawyers with specialized training in labour relations. An internship has also been made part of the process. In the case of fact finders this includes the writing of "mock" reports which are evaluated by ERC staff. Prospective mediators will act as observers at a mediation session.

3. Efforts have been made to improve the information provided to the parties. The research staff has gained access to non-teaching data which are made available to the parties and the neutrals. In an attempt to make information as current as possible some data are now collected by telephone. In addition, the

format of the Provincial Overview has been changed and is now published five times a year. Formerly it was published only twice annually.

4. An experiment in grievance mediation took place. The time and money saved in this approach, as well as the sensitivity with which the mediator dealt with a difficult situation, indicates that this service will be of value to the parties.

5. The Commission continued to offer technical assistance to the parties in an attempt to further "harmonious relations" as directed in the Act. The Field Services Staff assisted teachers and trustees of four separate jurisdictions, in examining their relationship and their negotiation process.

6. The Commission has contracted an academic researcher to develop empirical evidence regarding the negotiations process during the past five years.

7. In terms of emphasis two areas are worth noting: pre-fact finding mediation was used again this year and the Commission is making every effort to increase the impact of fact finding at the local level.

8. The Commission, to strengthen public relations, added the duty of information officer to the duties of the new administration officer.

The Commission is aware of the complexities of collective bargaining in the education sector. However it is confident, in spite of growing social, technological, economic and political pressures on the school system, that the process can work. The Commission is of the opinion that improved communication, maturity in collective bargaining and a commitment to better relations are essential conditions to solve the many problems facing the school system.

PART II CLIMATE OF COLLECTIVE BARGAINING 1979-80

Declining enrolment, financial restraint and inflation contributed significantly to difficult and protracted bargaining in 1979-80. In statistical terms the year's negotiations required a greater number of fact finders and mediators, and more supervised votes. The largest number of sanctions since the first year of the Act occurred during this reporting year, including the longest total withdrawal of services in the history of Ontario Education and the first strike by public elementary school teachers.

There were bright spots however. The number of multi-year agreements negotiated increased substantially from 38 in 1978-79 to 94 in 1979-80. Of these, two were for three-year terms.

PART III COMMISSION ACTIVITIES

1. *Liaison Activities*

(a) Field Services

The Commission maintains its awareness of negotiations between teachers and school boards through its Field Services staff, each member being responsible

for monitoring the negotiations in a specific region of the Province. This regular contact, by phone and on-site visits, enables the individual Field Services Officer to gain an understanding of the area in which collective bargaining is taking place and to become thoroughly familiar with the parties and the developments occurring in negotiations at the local level. In turn, the parties become better acquainted with the Commission's representatives, thus becoming more knowledgeable about the Act and the Commission's policies, procedures and resources. Through this exchange, progress reports are gathered and procedures under the Act are clarified. In addition, Field Services staff are also responsible for ensuring that statutory requirements are fulfilled in the conduct and supervision of votes.

A particular advantage of this means of maintaining an awareness of negotiations between teachers and school boards concerns the formal appointments by the Commission of third-party neutrals. In making judgments regarding the appropriateness of the appointment, and of the individual to be named as mediator or fact finder in any given area, the Commission has been able to rely on the first-hand information and advice of its Field Services staff.

(b) Research

The Research Services staff gathers and provides information to assist parties in their negotiations through a variety of publications and by responding to enquiries.

Information: The Commission's information base is the collective agreement. Approximately 200 agreements are coded annually by the Research Services staff. (The number of collective agreements **negotiated** annually varies with the number of multi-year agreements.) Information related to salaries, benefits and working conditions is taken from these agreements and added to a computerized data bank. During the 1979-80, Research Services staff processed more than 1,000 requests for information.

Through co-operation with the Ministry of Education, the Commission received information regarding school board expenditures for a variety of allowances and benefits which are provided to the teaching staff. This acquisition expanded the Commission's data bank.

The Commission's reference library contains a copy of all collective agreements, public fact finding reports, arbitration awards, final offer selections and ERC determinations.

Publications: A variety of publications dealing with insured employee benefits, retirement gratuities, grievance procedures, average weighted grid salaries, compensation statistics and working conditions was issued by the Commission during the 1979-80 year and made available to all parties. (See Appendix B)

The Research Services staff published an "Information Services Guide". Specifically this publication explains to the parties how information is compiled, as well as how and when the information is available.

Evaluation of Fact Finding: The parties involved in fact finding during the 1978-79 year were surveyed. The results of this survey were combined with

earlier examinations of this process to produce a comprehensive evaluation which was published in December.

The research findings indicate that the parties generally view the fact finding process as useful in achieving settlements, more so when recommendations are made. In addition this process does not have a negative impact upon their negotiating relationship.

Future Considerations: There are a number of matters which the Commission will pursue more intensively over the next year:

- the provision of non-teacher economic and labour data to the parties and in particular to third-parties appointed by the Commission.
- the improvement of computer processing facilities to include greater capability in data analysis.
- research related to the collective bargaining process.

2. *Selection and Training of Commission Appointees*

Another duty of the Commission under the Act is "to select and, where necessary, to train persons who may act as mediators, fact finders, arbitrators and selectors" (Section 61(1) (e)).

(a) Selection of Persons to Assist

The Commission maintains a list of available fact finders, mediators and arbitrators and selects persons from the list to assist in collective negotiations as required. This roster includes labour-management arbitrators, lawyers, business people, professors and former educators. The Commission continues to seek individuals whose background, experience and understanding of collective bargaining in education render them eligible to provide the kinds of third party assistance necessary in negotiations between teachers and boards.

(b) Training

During the reporting year, the Commission sponsored two intensive workshops for third-party neutrals. One workshop was held for those involved or interested in mediation. A follow-up workshop on mediation is planned for the spring of 1981. In addition to the workshops for neutrals, a workshop for newly appointed Directors of Education was held in order to familiarize them with the services and policies of the Commission.

3. *Technical Assistance*

The Commission staff was involved with four jurisdictions in activities designed to improve communications and relationships between the parties. This assistance was offered after both parties in each jurisdiction requested ERC involvement.

4. *Grievance Mediation*

For the first time the Commission appointed a third-party to **mediate** a grievance. Several features of this experiment — cost, speed of processing the

grievance and privacy, as well as allowing the parties to formulate their own solution — have influenced the Commission to consider making this part of its regular services.

5. *Grievance Arbitration Appointments*

While the Act does not require Commission involvement in the resolution of a grievance between the parties, negotiated grievance procedures in some written agreements specify that the Commission be asked to appoint a single arbitrator or chairman of an arbitration board to resolve the grievance at the final and binding step of the procedure. In all other cases, should the parties not agree on the choice of this individual, the Commission is obliged to make the appointment.

Table 1 shows that during 1979-80 the Commission made 8 such appointments. Seven of these appointments were single arbitrators and one was a chairman of an arbitration board.

TABLE 1
APPOINTMENTS CONCERNING GRIEVANCE
ARBITRATORS, 1979-80

Board Classification	Appointments By ERC	Nature of Appointments
Boards of Education —Elementary	1	Chairman — Board of Arbitration
Boards of Education —Secondary	6	Chairmen — Boards of Arbitration
County and District Combined Roman Catholic Separate School Boards	1	Chairman — Board of Arbitration
Other School Boards	—	—
Total	8	

6. *Advice to the Lieutenant Governor in Council*

Section 61 (1) (h) of the Act states it is the duty of the Commission:

“ . . . to advise the Lieutenant Governor in Council when, in the opinion of the Commission, the continuance of a strike, lock-out or closing of a school or schools will place in jeopardy the successful completion of courses of study by the students affected by the strike, lock-out or closing of a school or schools.”

During the 1979-80 agreement year the Commission gave advice to the Lieutenant Governor in Council during the dispute between the Sudbury Board of Education and its secondary teachers.

7. *Other Commission Decisions/Determinations*

1. The Commission was asked to make a determination in 1979-80 concerning the appointment of a fact finder in the negotiations between the Board of Education for the Borough of York and District 14 of the Ontario Secondary School Teachers' Federation. The request arose because neither the fact finding process of the preceeding year nor subsequent mediation resulted in a settlement being concluded for the 1978-79 agreement year. A strike vote did not produce a majority in favour of strike, nor did the parties jointly agree to resolve their differences through a form of third-party resolution by August 31, 1979. In effect, the parties had operated without a written collective agreement for the 1978-79 year.

The issue before the Commission was whether to appoint a fact finder in September 1979. The Commission's determination not to appoint a fact finder was based upon a decision given in a similar situation a year earlier. This decision, in full, is located on pages 10, 11, and 12 of the Fourth Annual Report 1978-79.

2. The Commission was also asked by the York County Board of Education and District 11 of the Ontario Secondary School Teachers' Federation to make a determination regarding an objection to the conduct of a ratification vote. On the recommendation of the Chief Returning Officer, the Commission revised its instructions to Returning Officers to contain the following:

The Returning Officer shall organize and supervise all arrangements for conducting a vote or votes. The Returning Officer shall refrain from any activity or conduct which might be seen to influence the outcome of a vote(s) and shall instruct the supervisors accordingly.

PART IV THE NEGOTIATING PROCESS

1. *The Parties*

During 1979-80, approximately 73,200 Ontario teachers negotiated the terms and conditions of their employment under the provisions of the Act. The number of school boards and branch affiliates, by type, and the number of teachers employed by those boards, are summarized in Table 2 below.

TABLE 2
NUMBER OF SCHOOL BOARDS, BRANCH AFFILIATES
AND TEACHERS IN ONTARIO 1979-80

Board Classification	Number of Boards	Number of Branch Affiliates				
		FWTAO	OPSMTF	OECTA	AEFO	OSSTF
Boards of Education	76*	76	76	—	25	76
Metropolitan Toronto School Board*	1	1	1	—	—	—
County and District Combined Roman Catholic Separate School Boards	48	—	—	47	40	—
Other Public School Boards	42	4	7	—	—	—
Other Separate School Boards	13	1	1	5	4	—
Secondary School Boards	1	—	—	—	—	—
Boards on Crown Lands, Hospital and Hydro Centres and the Provincial Schools Authority	23	8	8	—	4	2
Total	194	90	93	52	73	79
Number of Teachers	106,206	30,066	14,766	19,478	5,459	36,257

*The Metropolitan Toronto School Board, which operates schools for the trainable retarded, does not operate elementary and secondary schools as such; however, its teachers are members of the elementary school branch affiliates, F.W.T.A.O. and O.P.S.M.T.F.

2. *Renewals under the Act*

The 194 school boards and 387 branch affiliates, referred to in Table 2, conducted 184 sets of negotiations during 1979-80 as indicated in Table 3. It should be noted that the number of negotiations during any given year can vary depending upon: (a) the number of parties serving notice of their intention to negotiate; (b) the year in which the existing agreement expires.

TABLE 3
STATUS OF NEGOTIATIONS, 1979-80

Board Classification	Not Subject to Negotiation*	Subject to Negotiation
Boards of Education —Elementary	11	63
Boards of Education —Secondary	20	54
County and District Combined Roman Catholic Separate School Boards	6	42
Other School Boards	1	21
Total	38	180**

*Concluded a multi-year settlement during a previous year.

**In addition to these 180 situations, four others (2 Elementary and 2 Secondary) which had not settled during 1978-79 continued their negotiations into the 1979-80 period and concluded multi-year settlements which covered the 1979-80 agreement year.

3. *The Duration of Agreements*

Table 4 gives a breakdown of the duration and termination dates of settlements reached during 1979-80.

The 92 two-year and 2 three-year agreements represent a record number of multi-year settlements concluded during any one year since the inception of the Act. The largest previous total of multi-year agreements was 38 in 1978-79.

TABLE 4
DURATION AND TERMINATION DATES OF SETTLEMENTS
CONCLUDED IN 1979-80

Board Classification				
	Not Settled	1 Year Aug. 31/80	2 Years Aug. 31/81	3 Years Aug. 31/82
Boards of Education				
—Elementary	—	28	34	1
Boards of Education				
—Secondary	4	24	25	1
County and District				
Combined Roman				
Catholic Separate				
School Boards	—	17	25	—
Other School Boards	—	13	8	—
Total	4	82	92	2

4. *Persons Appointed to Assist*

Mediators or “persons to assist” as they are referred to under section 14 of the Act can be appointed at any time, either at the direction of the Commission or, with Commission concurrence, at the request of one or both parties. A mediator may help the parties fashion their own solution to the conflict and/or suggest various proposals and methods for the actual resolution of the problem. The various styles of mediation are as unique and individualistic as the mediators

themselves. This assistance is less formal than fact finding, which is discussed in the next section, in that there are no prescribed time frames, written reports or recommendations. This is in keeping with the intent of the Act which is to provide the parties with outside assistance either prior to the hardening of positions, or after the required fact finding process, as a viable alternative to the imposition of sanctions as a means of settlement. As with all other forms of third-party involvement, such assistance is terminated immediately upon the parties reaching an agreement.

Table 5 describes the mediation experience during 1979-80.

TABLE 5
ASSIGNMENT OF MEDIATORS, 1979-80

Board Classification	No. of Situations Negotiated	No. Mediation	Mediation Only	Mediation Pre Fact Finding Only	Mediation Post Fact Finding Only	Mediation both Pre and Post Fact Finding
Boards of Education						
—Elementary	63	39	1	1	20	2
Boards of Education						
—Secondary	54	31	3	2	13	5
County and District						
Combined Roman						
Catholic Separate						
School Board	42	28	—	—	11	3
Others	21	19	—	—	2	—
Total	180	117	4	3	46	10

Sixty-three (35%) of the 180 sets of negotiations involved formal mediation. This is almost the same percentage (34.8%) as in the previous year, 1978-79, when formal mediation was used in 72 of 207 negotiations.

For the year there were 5 fewer fact finding appointments and 9 fewer mediation appointments than in 1978-79. The significant figure is that 46 mediators were appointed after fact finding. This represents a seven percent increase in the use of mediators at this stage of negotiations. It should be noted that during negotiations an added emphasis is being placed on matters related to working conditions and job security, items perhaps not as amenable to solution as those related to compensation.

5. *Fact Finding*

Fact finding affords an opportunity for the parties to clarify and, hopefully, resolve whatever differences exist between them in order to reach a settlement prior to the expiry of their agreement. The process becomes mandatory once this date — August 31st — has passed. Further, it is a necessary procedure before teachers can take strike action or a school board can initiate a lock-out. The fact finding process also recognizes the public's right to know what the issues are and to be made aware of each party's position with respect to these issues prior to any possible interruption of the normal school program.

The Commission may appoint a fact finder at any time during the negotiations either upon the request of one or both parties or if the Commission deems that the parties are at an impasse and would benefit from such assistance. The fact finder, a third-party neutral, investigates a particular local situation and writes a report. A time limit — thirty days — is established for the fact finder to meet with the parties, examine their written materials, listen to verbal submissions and submit a report to the Commission, which is, in turn, delivered to the parties. The report must set out those matters upon which the parties have agreed as well as those upon which they have not agreed. A fact finder may make recommendations regarding the items in dispute but these are not binding upon the parties.

Once the parties receive the report they have a 15-to 20-day period in which to reach a settlement. If an agreement is not negotiated during this time, the report is made public. Should the parties reach settlement at any time during fact finding, the process is automatically terminated.

A provincial review of fact finding for the 1979-80 agreement year is shown in Table 6. The number of appointments is similar to the figure of a year ago (114 of 207). Of the 180 sets of negotiations during the 1979-80 agreement year 109 (60%) required this type of assistance. As in previous years, virtually all fact finder appointments were made pursuant to section 15(c) of the Act which states:

“the written collective understanding that was in effect or the agreement that was in operation in respect of the parties expires during negotiations between the parties to make or renew an agreement, and fact finding has not taken place as provided in the Part. 1975, c 72, s. 15.”

Seventy-nine percent of the reports were released to the parties while the proportion made public rose from 61% in 1978-79 to 71% in 1979-80.

TABLE 6
NUMBER OF FACT FINDER APPOINTMENTS, REPORTS
RELEASED TO PARTIES AND REPORTS MADE PUBLIC, 1979-80

Board Classification	Number of Boards where Fact Finder Appointed	Reports Released to Parties	Reports Made Public
Boards of Education —Elementary	42	31	29
Boards of Education —Secondary	36	31	27
County and District Combined Roman Catholic Separate School Boards	24	20	17
Other School Boards	7	4	4
Total	109	86	77

6. *Determination of Good Faith Bargaining*

Eight complaints of failure to bargain in good faith were filed with the Commission during 1979-80. This is the same number as were filed during the previous year. The disposition of these complaints can be seen in Table 7.

TABLE 7
GOOD FAITH BARGAINING, 1979-80

Complainant	Respondent	Disposition
Branch Affiliate of O.S.S.T.F.	York County Board of Education	Terminated
Branch Affiliates of F.W.T.A.O. & O.P.S.M.T.F.*	West Parry Sound Board of Education	Terminated
Branch Affiliates of F.W.T.A.O. & O.P.S.M.T.F.*	Peel Board of Education	Terminated
Branch Affiliate of O.S.S.T.F.*	Stormont, Dundas & Glengarry County Board of Education	Pending
Branch Affiliate of O.S.S.T.F.	Norfolk Board of Education	Terminated
Norfolk Board of Education	Branch Affiliate of O.S.S.T.F.	Terminated
Branch Affiliate of O.S.S.T.F.*	North York Board of Education	Terminated
Branch Affiliate of O.S.S.T.F.	Peel Board of Education	Terminated

* Initiated during 1978-79 agreement year.

7. *Voluntary Binding Arbitration/Final Offer Selection*

The parties, if they mutually agree, may choose one of two options involving third-party resolution: voluntary binding arbitration or final offer selection. If a negotiated settlement is reached at any time during these procedures, the process is then terminated. Table 8 indicates the incidence of both during the reporting period.

(a) *Voluntary Binding Arbitration*

Eight agreements were concluded during 1979-80 through voluntary binding arbitration. This contrasts with 7 agreements reached by this form of third-party resolution during 1978-79. Only one of the sanction situations occurring during 1978-79 adopted this form of resolution. Again in 1979-80 this form of conflict resolution was used in only one sanction situation.

The parties have the option of a single arbitrator or a three-person board of arbitration. A single arbitrator was used on three occasions and a board of arbitration was used in the other five.

TABLE 8
AGREEMENTS REACHED BY VOLUNTARY BINDING
ARBITRATION OR FINAL OFFER SELECTION, 1979-80

Board Classification	Agreements Reached by Voluntary Binding Arbitration	Agreements Reached by Final Offer Selection
Boards of Education —Elementary	2	—
Boards of Education —Secondary	6	2
County and District Combined Roman Catholic Separate School Boards	—	—
Other School Boards	—	—
Total	8	2

(b) Final Offer Selection

Under this resolution procedure, each party's final position concerning the items remaining in dispute, together with any supporting evidence, is presented to a selector and the other party within 15 days of appointment. The parties may then provide written responses to the other party's position and the selector may hold a hearing or hearings.

Within 15 days of any hearing(s) (or notice from the parties to dispense with hearings), the selector must choose one party's final offer in its entirety. This offer is then incorporated into an agreement, which also includes those items agreed to by the parties during negotiations.

During 1979-80 final offer selection (see Table 8) was used twice and on both occasions the final offer of the teachers was selected.

In the 1978-79 reporting year, final offer selection was utilized once. In this case also, the final offer of the teachers was selected.

8. *Supervised Votes: Last Offer, Strike and Ratification*

Prior to any strike activity, the teachers must first request in writing, the Board's last offer concerning all matters agreed upon and all matters remaining in

dispute. A secret ballot vote on the board's last offer must then be conducted under the Commission's supervision. If the teachers reject this offer, a second secret ballot vote to determine whether the teachers favour a strike may then be held, again under the supervision of the Commission.

TABLE 9
SUPERVISED BOARD'S LAST OFFER, STRIKE
AND RATIFICATION VOTES, 1979-80

Board Classification	Board's Last Offer Votes	Strike Votes	Ratification Votes
Boards of Education			
—Elementary	1	1	2
Boards of Education			
—Secondary	12	9	4
County and District Combined Roman Catholic Separate School Boards	12	7	2
Other School Boards	1	1	—
Total	26	18	8

During 1979-80 the Commission was called upon to supervise 26 votes by teachers on a school board's last offer and 18 votes on strike action compared with 14 last offers and 8 strike votes during 1978-79. The Commission also supervised eight ratification votes on agreements made after the termination of a strike.

9. *Strikes, Lock-Outs and School Closings*

Eight of the eighteen strike votes taken during 1979-80 resulted in strikes. Details of these sanctions are provided in Table 10.

The eight situations in which a sanction occurred contrasts to three during the 1978-79 year. The Sudbury secondary strike and lock-out lasted 56 instructional days.

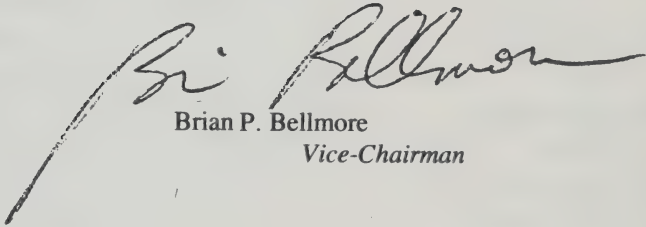
10. *Legislated Settlements*

None of the situations where sanctions occurred was terminated by Acts of the Ontario Legislature during 1979-80.

THE EDUCATION RELATIONS COMMISSION

A handwritten signature in cursive script, reading "Bryan M. Downie".

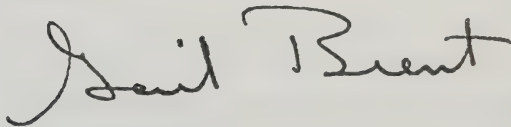
Bryan M. Downie
Chairman

A handwritten signature in cursive script, reading "Brian P. Bellmore".

Brian P. Bellmore
Vice-Chairman

A handwritten signature in cursive script, reading "Gabrielle Levasseur".

Gabrielle Levasseur
Commissioner

A handwritten signature in cursive script, reading "Gail Brent".

Gail Brent
Commissioner

A handwritten signature in cursive script, reading "John C. Ronson".

John C. Ronson
Commissioner

TABLE 10
STRIKES, LOCK-OUTS AND CLOSING OF SCHOOLS, 1979-80
SEPTEMBER 1, 1979 TO AUGUST 31, 1980

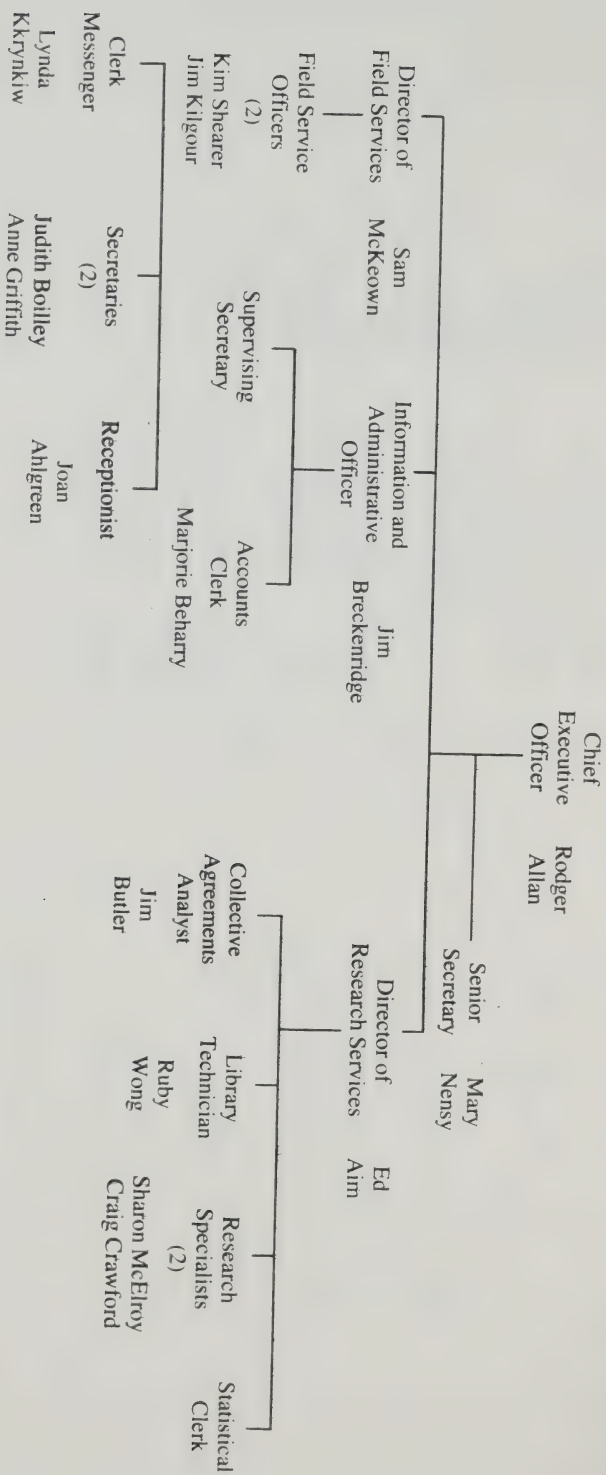
Board	Number of Schools	Number of Teachers in Branch Affiliate(s)	Number of Students Affected	Type of Sanction	Duration of Sanction	Final Settlement
York County	15	968	16,274	Work-to-rule Closing of Schools	Sept. 1-6/79* Sept. 5, 6/79 (3 instructional days)	Voluntary Binding Arbitration
Peel Elementary	123	2,533	51,749	Withdrawal of services Work-to-rule	Oct. 2-21/79 Oct. 22/79 (14 instructional days)	Voluntary Binding Arbitration
North York Secondary	50	2,407	33,427	Work-to-rule	Oct. 29—Dec. 13/79 (40 instructional days)	Mediation/ Voluntary Binding Arbitration
Brant County Elementary	41	566	11,078	Withdrawal of services	Nov. 14—Dec. 13/79 (22 instructional days)	Negotiated
Lambton County Secondary	8	489	7,721	Withdrawal of services	Jan. 29—March 30/79 (39 instructional days)	Mediation/ Voluntary Binding Arbitration
Sudbury Secondary	17	870	13,526	Withdrawal of services Lockout	Feb. 6—May 4/80 March 11—May 4/80 (56 instructional days)	Negotiated
Frontenac RCSS	16	234	4,576	Withdrawal of services	Feb. 20—March 10/80 (14 instructional days)	Negotiated
Nipissing RCSS	35	430	7,539	Withdrawal of services	April 30—May 26/80 (18 instructional days)	Negotiated

*Continuation of sanction which commenced in June 1979.

APPENDIX A

STAFF ORGANIZATION

Education Relations Commission



APPENDIX B

PUBLICATIONS ISSUED DURING 1979-1980 BY THE EDUCATION RELATIONS COMMISSION

Teacher Board Collective Agreements: Individual Summaries

A Provincial Overview

Grievance Arbitration: Summaries of arbitration decisions arising out of differences between the parties under *The School Boards and Teachers Collective Negotiations Act, 1975*.

Teacher Placement: Grid Distributions of Ontario Teachers, Total Staff and Enrolment

Monograph Series:

- | | |
|--------|--|
| No. 12 | Compensation Statistics, 1978-79 |
| No. 13 | Weighted On-Grid Average Salaries, 1978-79 & 1979-80 |
| No. 14 | Grievance/Arbitration Procedures, 1979-80 |
| No. 15 | Insured Benefits & Retirement Gratuities, 1979-80 |

Clause File Series:

- | | |
|--------|---|
| No. 14 | Pupil Teacher Ratio, Class Size and Teacher Instructional Load, 1979-80 |
|--------|---|

APPENDIX C

STATEMENT OF EXPENDITURES
APRIL 1, 1979—MARCH 31, 1980

CATEGORIES	BUDGET	TOTAL	ACTUAL EXPENDITURES	TOTAL
SALARIES & WAGES	\$374,900		\$368,192	
EMPLOYEE BENEFITS	67,200		52,748	
		\$442,100		\$420,940
TRANSPORTATION & COMMUNICATION				
Communications	10,000		9,309	
Mailing	12,000		12,712	
Freight	1,000		281	
Travel — Commission Staff	30,000		31,402	
Travel — Others	70,000		77,737	
		123,000		131,441
SERVICES				
Advertising	2,000		600	
Rental, Photo Copier	6,000		6,017	
Data Processing	25,000		22,940	
Housekeeping	—		350	
Conference Expenses	5,000		5,472	
Commissioners	28,300		27,746	
Professional Services	210,000		219,568	
Building Maintenance	1,000		303	
Equipment Maintenance	2,000		584	
Special Services	35,000		41,317	
		314,300		325,198
SUPPLIES				
Office Furniture	1,000		244	
Accessories	400		—	
Medical Supplies	—		25	
Office Supplies	6,000		7,446	
Printing	40,000		41,066	
Miscellaneous	1,000		—	
Inter-Branch Transfers	2,000		2,778	
		50,400		51,559
TOTAL		<u>\$929,800</u>		<u>\$929,138</u>

APPENDIX D

SUMMARY OF NEGOTIATIONS, 1979-1980

Negotiations conducted in accordance with the Act

Total number of negotiations conducted by boards and teachers in Ontario	180
Number of negotiations not requiring formal Commission assistance	71
Number of fact finders assigned	109*
Number of situations where mediator assigned	63
Settlements by voluntary binding arbitration	8
Settlements by voluntary final offer selection	2

**Note: In some sets of negotiations both a fact finder and a mediator were assigned.*

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Education Relations Commission

Annual Report

1980-81



Ontario

Education
Relations
Commission

Telephone (416) 922-7679 111 Avenue Road
Suite 400
Toronto, Ontario
M5R 3J8

To: The Members of the Legislative Assembly
Province of Ontario

ANNUAL REPORT 1980-81

Dear Members:

We have the honour to present the Sixth Annual Report of the Education Relations Commission.

The Education Relations Commission

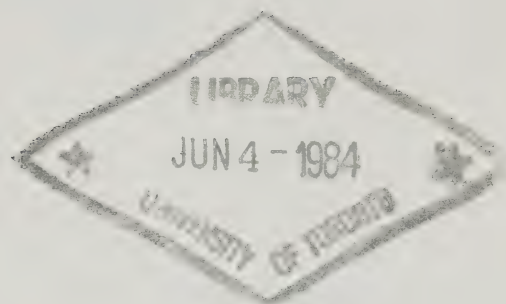


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OVERVIEW AND REPORT HIGHLIGHTS

The Education Relations Commission was established by *The School Boards and Teachers Collective Negotiations Act*, 1975 (hereinafter referred to as the Act or Bill 100). Included in this report is a summary of the activities of the Commission during the 1980-81 agreement year — that is, from September 1, 1980 to August 31, 1981.

On October 30, 1979, the Honourable Bette Stephenson, Minister of Education, through a statement to the Legislature, announced the establishment of a Commission to review the collective negotiation process between teachers and school boards. The terms of reference of this Commission (which became known as the Matthews Commission) were to examine and evaluate *The School Boards and Teachers Collective Negotiations Act*, 1975. The Commission reported to the Minister of Education in June of 1980, i.e., just prior to the reporting year which is the focus of this document.

During the hearings of, and in briefs submitted to, the Matthews Commission, there was a consensus by many teacher and trustee organizations that negotiations in Ontario education took too long and that fact finding (which is a required step prior to legal sanctions), while useful in most cases, could be improved and was being over-utilized by the parties. There were indications, as well, that it was desirable to improve teacher/school board relationships and that, under the existing ERC fee structure, it was difficult to attract and hold highly qualified third parties. These views were shared by the Matthews Commission itself.

Against this background, last year's report by the Education Relations Commission contained the following observations:

The Commission is aware of the complexities of collective bargaining in the education sector. However, it is confident, in spite of growing social, technological, economic and political pressures on the school system, that the process can work. The Commission is of the opinion that improved communication, maturity in collective bargaining and a commitment to better relations are essential conditions to solve many problems facing the school system.

In the past year, because of the difficulties noted above, the Education Relations Commission has taken a number of initiatives, which are within its mandate, to assist the parties in collective bargaining and to facilitate the process itself. Particularly against the above background and the fact that declining enrolment, financial restraint and inflation have contributed to difficult negotiations in *every* year since 1975, the highlights for 1980-81 are interesting. They are as follows:

1. The *length* of negotiations declined in every panel (elementary, secondary, and separate);
2. There was a significant reduction in the *number of dispute resolution stages* (provided under Bill 100) which were utilized by the parties;
3. There was a significant reduction in the *number of third parties* which had to be appointed by the ERC;
4. The *number of fact finding appointments* required under the Act showed a large drop from 1979-80. At the same time, there was an increase in the appointment of mediators prior to fact finding (a strategy recommended by the Matthews Commission);
5. There was a large reduction from 1979-80 in the *number of last offer and strike votes* supervised by the Commission. Indeed, the number of such votes was the lowest since the enactment of Bill 100;
6. There were only four *strikes* during the reporting year. Two of these were a carry-over from the previous negotiating round.
7. The trend to *multi-year agreements* continued, despite the existence of a high and rising inflation rate and great uncertainty in the economy in general;
8. The Commission was successful in attracting *new individuals* with very high qualifications as third party neutrals;
9. The Commission formally mounted *preventive mediation* and *grievance mediation* programs to assist the parties in their day-to-day and collective bargaining relationships.

There are a number of reasons for the positive developments in 1980-81. With respect to the first four, Commission policy played at least some role. The most significant policy initiatives have occurred in the area of fact finding which, as noted, is required under the Act prior to legal strike or lock-out action by teachers or school boards. The Commission's overall objectives in the area of fact finding have been to *reduce* the number of fact finding appointments and, where they must be made, to strengthen the fact finding process. By so doing, the Commission hopes to reduce the length of negotiations and the total number of third party appointments.

With respect to this goal, the Commission has introduced a number of initiatives. First, over the past two years (1979-80 and 1980-81), it has added a large number of fact finders with very high credentials to its cadre of third

party neutrals. Second, in its training programs, the ERC has encouraged fact finders to include in their reports recommendations on terms of settlement where called for and justified. Third, it has urged fact finders to back up their recommendations with rationale and data so that the recommendations will be more acceptable to the parties. Fourth, it has encouraged the use of *pre*-fact finding mediation by the parties, in the hope that the number of issues on the bargaining table will be significantly reduced prior to fact finding or that such mediation will result in the parties settling their negotiations short of fact finding. Increased utilization of such mediation was a recommendation of the Matthews Commission. In this context, therefore, it is worth noting that in 1980-81 more *pre*-fact finding mediation was utilized than in previous years and that the number of fact finding appointments dramatically *declined* from previous years in *both* absolute and relative terms.

The 1980-81 experience is encouraging. Since the passage of Bill 100 in 1975, negotiations were becoming longer and longer, the parties seemed to be relying on third party appointments by the Commission to a greater and greater extent, and each year prior to concluding an agreement there was a tendency for the parties to progress through an *increased* number of stages provided in the Act. Observers of public sector labour legislation have suggested that these types of phenomena are typical and that public sector labour legislation may lose its effectiveness with the passage of time.

Although the above is not meant to imply that there will not be ups and downs in teacher/board bargaining in the Province, the 1980-81 experience does constitute the first reversal of some troublesome trends and tends to validate the ERC's view that the collective bargaining process in Ontario education is functioning well and is in a fairly healthy state. We are not suggesting, however, that improvements could not or should not be made either to the bargaining process or to the Act.

There were a number of internal, organizational and personnel changes in the Commission which also should be noted. These changes were introduced to improve the Commission's service to the parties and to the public. First, in the light of its experience subsequent to the enactment of *The School Boards and Teachers Collective Negotiations Act*, the Commission conducted a comprehensive review of its policies and procedures during the past year. The review resulted in the approval of a large number of amendments and in the publication of a new consolidated edition of the Policies, Procedures and Forms Manual. In February, the manual was distributed to all of the parties to keep them informed of the Commission's procedures in carrying out its duties under the Act.

Second, in the fall of 1980, the Commission instituted a system of performance review for all of its professional, secretarial and clerical staff. Under this program, the performance of each employee is reviewed and evaluated annually by the employee's supervisor. The purposes of the program are to

assist the employee, to facilitate better communication among Commission personnel, and to improve the performance of Commission staff.

Third, each fact finder's report is now evaluated by the Commission's professional staff for style and expression, and formal feedback is offered to all fact finders. A system informing all fact finders of final developments in the negotiations to which they were appointed has also been implemented so that they can evaluate their own reports against these developments.

Next, during the past year, the Commission released — under the provisions of the Act — *all* fact finding reports to the local media in the area where fact finding had occurred. In previous years, the Commission had released reports to the media only when the local parties had indicated that they had not done so. In addition, the Commission has requested all fact finders to include summaries with their reports to try to ensure that each report is accurately reported by the media. These changes were introduced in response to the observation by the Matthews Commission that fact finding reports often were given little coverage by the media and, therefore, did not have the public impact which was intended under the legislation.

Staff members with the Research section of the ERC constantly endeavour to improve Commission services concerning the supply of data to both teacher affiliates and school boards. To assist in this regard the Commission, during the reporting year, purchased a micro computer/word processor which will enable Commission staff to more efficiently meet the continual demand for information, to extend its data capabilities and to reduce the time taken to supply information to branch affiliates and school boards.

With respect to Field Services, staff are now required to identify and report to the Commission, formally and well in advance, those teacher/board situations where difficult negotiations are likely to be experienced in a future bargaining round. Indeed, all upcoming sets of negotiations are evaluated and rated by staff in terms of degree of difficulty. This system was introduced by the Commission in order to more effectively and efficiently plan its third-party appointments.

While monitoring and *preventive* mediation duties have been increased by the Commission, permanent staff of the ERC are no longer appointed as third parties in negotiations. All mediation and fact finding is now undertaken by individuals who are appointed on an ad hoc basis. This decision was made by the Commission in order to ensure the maintenance of its neutrality with the parties.

Finally, over the past year the Commission has attempted to separate its "facilitative" from its "quasi-judicial" function. The latter entails processing bad faith bargaining charges, charges filed under section 60 (1)(g), vote supervision, and so on. Because these two tasks are distinctly different and

require separate attention, at the beginning of the reporting year, the Commission included all administrative matters related to the Commission's quasi-judicial duties in the position of the Administrative and Information Officer. Field Services staff continue to oversee all aspects related to the facilitative function.

During the past six years, the Commission has had the good fortune to attract as Chief Executive Officers, two fine Ontario educators — Mr. Doug Lawless and Mr. Rodger Allan. When the second Chief Executive Officer of the Commission, Mr. Allan, indicated his desire to retire, the Commission initiated an extensive and thorough search to find a replacement. In May of 1981, Dr. Bryan Downie (Chairman of the Commission) announced that Mr. Robert H. Field (Director of Windsor Board of Education) had been selected as Mr. Allan's replacement. Mr. Allan will retire in the next reporting year. In making the announcement, the Chairman paid tribute to Mr. Field for his knowledge of, and appreciation for, collective negotiations in Ontario education, his familiarity with the major institutions, personalities and issues in Ontario Education, and his proven administrative record. With this appointment, the Commission believes that its record of outstanding service to the parties and the public will be maintained.

I TEACHER/SCHOOL BOARD BARGAINING IN ONTARIO — A BRIEF HISTORY

On July 18, 1975, legislation granting Ontario teachers the right to bargain collectively and the right-to-strike was enacted in Ontario. Prior to the passage of legislation, which would become known as Bill 100, the Ontario government had proposed legislation which included compulsory arbitration rather than the right-to-strike. In response to the proposed statute (Bill 275), both teacher and trustee organizations, albeit for different reasons, lobbied the Government to include the right-to-strike in the legislation. The right-to-strike became a priority for the teachers because they viewed compulsory arbitration as an ineffective form of dispute resolution. The trustees viewed compulsory arbitration as both an imposition on, and an erosion of, local board autonomy and, therefore, in conflict with the principle of representative government.

Moreover, those who drafted Bill 100 were convinced by events in the education sector as well as other jurisdictions that strike-prohibiting legislation is not always effective. In fact, it was felt that it could have the opposite effect. There was — and is — a feeling by many labour relations experts that legislation prohibiting strikes may expand or magnify employer-employee confrontation. The primary reason for proposing Bill 100 was to introduce to the province some stability and order in teacher/board bargaining and against this background, the right-to-strike was included in the legislation.

The need for legislation regarding teacher-board negotiations was obvious in the early 70's. Teachers were demanding the right to collectively bargain such issues as working conditions, grievance procedures, and financial matters. Some trustees viewed the collective bargaining process as an infringement of management rights. The net result, in the absence of legislation, was that bargaining took place in a vacuum and that relationships between trustees and teachers were deteriorating both on an individual and organizational basis.

The School Boards and Teachers Collective Negotiations Act, 1975, brought order to this confusion by providing ground rules for collective bargaining. Although the most publicized feature of the Act was the right-to-strike, realistic alternatives such as **voluntary** arbitration or final offer selection were provided at each step in the bargaining process. Events leading to a **legal** strike or lock-out under the Act were regulated. For example, a strike or lock-out under the Act is not legal until:

- a) A fact finder has met with the parties and his report has been made public; and
- b) A 30-day cooling off period takes place after the fact finder's report is submitted to the parties; and

- c) The teachers have voted — by secret ballot in a supervised vote — on the last offer of the school board; and
- d) The teachers have voted — by secret ballot in a supervised vote — to take strike action.

Other features of the Act were also significant. Negotiations take place at the county board level between the local teachers' federation(s) and the school board. There are separate negotiations in the elementary and secondary panels of each board. The scope of negotiations is open, i.e., all matters are negotiable. Each collective agreement is deemed to contain a procedure for binding settlement of disputes arising out of administration of the agreement if one has not been negotiated locally, and a strike or a lock-out is illegal during the term of the collective agreement.

Finally, the Act provided for a five-man commission — The Education Relations Commission — to monitor and assist all local negotiations between teachers and school boards and to administer the Act. The Commission was given seven specific functions under section 60 of the Act.

1. Monitoring all negotiations;
2. Collecting and providing data to all parties in collective negotiations;
3. Assisting the parties in their collective negotiations;
4. Training third party neutrals;
5. Adjudicating bad faith bargaining charges;
6. Supervising last-offer, strike and ratification votes;
7. Advising the Lieutenant Governor in Council concerning jeopardy to students' courses of study in the event of strike and/or lock-out.

Four years after the passage of Bill 100, the Minister of Education announced in the Legislature the establishment of a Commission to review the collective negotiations process between teachers and school boards. This Commission — referred to as the Matthews' Commission — chaired by Dr. B.C. Matthews, the President of the University of Waterloo, submitted its report to the Minister of Education, in June of 1980. Based on the experience during the first five years of Bill 100, the Matthews Commission proposed a small but nevertheless significant set of recommendations to change the Act, none of which, as of August 1981, has been implemented.

Recently, however, minor revisions to the Act have been made. Every five years the statutes of the province are reviewed and as a result, redundant sections of the Act were removed. In addition, the name of the Act was changed, effective August 1, 1981 to the ***School Boards and Teachers Collective Negotiations Act***, Revised Statutes of Ontario, 1980, Chapter 464.

II THE COMMISSION — MEMBERS AND ORGANIZATION STRUCTURE

The Education Relations Commission is composed of five members appointed by the Lieutenant Governor in Council. The term of appointment may range from one to three years and each member of the Commission is eligible for reappointment upon the expiration of the term. Dr. Bryan Downie was appointed Chairman of the Commission on November 1, 1979 and Brian Bellmore was appointed Vice-Chairman on December 19, 1979. Gail Brent was appointed a Commissioner in January of 1980, while John Ronson and Gabrielle Lavasseur have served on the Commission since 1975. A biographical sketch of each of the Commissioners is contained on pages 10 & 11.

The Commission has a permanent staff of 16 individuals. In order to oversee bargaining in the more than 230 sets of negotiations which fall under its jurisdiction, the Commission must rely on external human resources. Therefore, in addition to its permanent staff, the Commission utilizes a cadre of more than fifty individuals who are appointed on a contractual basis as third party neutrals. This arrangement has allowed the Commission to attract and continue to appoint some of the most able third parties in the province.

All appointments and all major decisions and determinations are made by the Commission per se. The day-to-day operations of the Commission, however, are managed by a Chief Executive Officer. The operations of the ERC are divided into two major functions — Field Services and Research Services. (An organization chart is provided on page 13). Briefly, Field Services monitor negotiation activity at the local level, while Research Services provide data to all parties in negotiations.

The small size and the vast experience of its permanent staff, combined with the high calibre of its part-time people, has allowed the Commission to quickly and effectively respond to the needs of the parties and the public.

MEMBERS OF THE COMMISSION



Chairman — BRYAN M. DOWNIE, B.A. (Concordia, Minnesota), M.B.A. (University of Chicago), Ph.D. (University of Chicago).

Dr. Downie (Professor, Industrial Relations and Public Policy, Queen's University) has served as a fact finder, mediator, and interest arbitrator. He has published extensively in the area of labour relations and his book, *Collective Bargaining and Conflict Resolution in Education* is considered the definitive study of collective bargaining in Ontario education.



Vice-Chairman — BRIAN P. BELLMORE, B.Sc. (University of Toronto), LL.B. (Osgoode Hall), LL.M. (Harvard).

Mr. Bellmore is a member of a Toronto law firm engaged in the practice of labour relations, administrative law and civil litigation fields. He is a part-time member of the Faculty of Osgoode Hall Law School of York University and is a special lecturer in contract law.



Commissioner — GAIL BRENT, B.A. (University of Toronto), LL.B. (Queen's).

Mrs. Brent is an approved arbitrator of the Labour Management Arbitration Commission and the Ontario Police Arbitration Commission. She is a part-time Vice-Chairman of both the Ontario Labour Relations Board and the Grievance Settlement Board, as well as a part-time board member and adjudicator of the Public Service Staff Relations Board.



Commissioner — GABRIELLE LEVASSEUR, B.A. (University of Ottawa).

Miss Levasseur is a former teacher with over twenty years of experience in Ontario classrooms. For seventeen years she was Secretary-Treasurer of L'Association des enseignants franco-ontariens which also placed her on the Board of Governors of the Ontario Teachers' Federation. In recognition of her work with these organizations, she was awarded with a life membership to AEFO and was made a Fellow of the Ontario Teachers' Federation. Miss Levasseur has been a Commissioner since 1975.



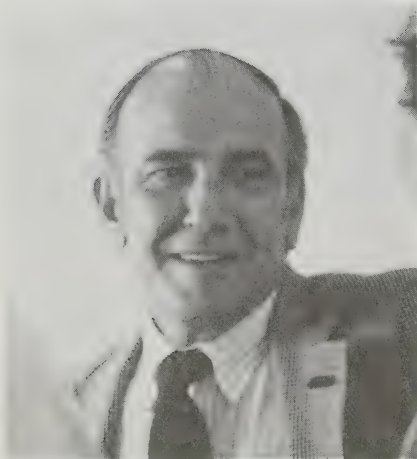
Commissioner — JOHN C. RONSON, B.Comm. (McGill), M.B.A. (Harvard).

Mr. Ronson is Organization Development Manager for the Steel Company of Canada and President of the Canadian Foundation for Economic Education. He has been a Commissioner since 1975. He is a former Chairman of the Sheridan College Board of Governors, a past Chairman of the Burlington Board of Education and later a member of the Halton County Board of Education. In 1970, Mr. Ronson was Chairman of the Ontario School Trustees' Council.

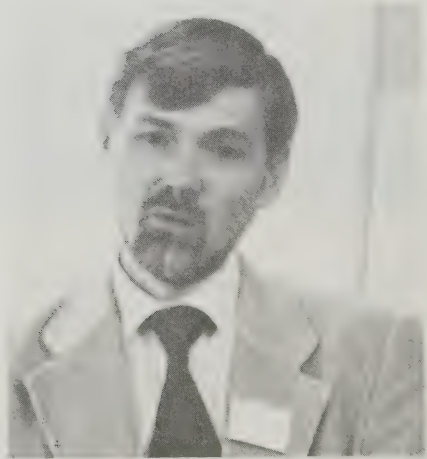
SENIOR STAFF OF THE COMMISSION



G.R. ALLAN
Chief Executive Officer

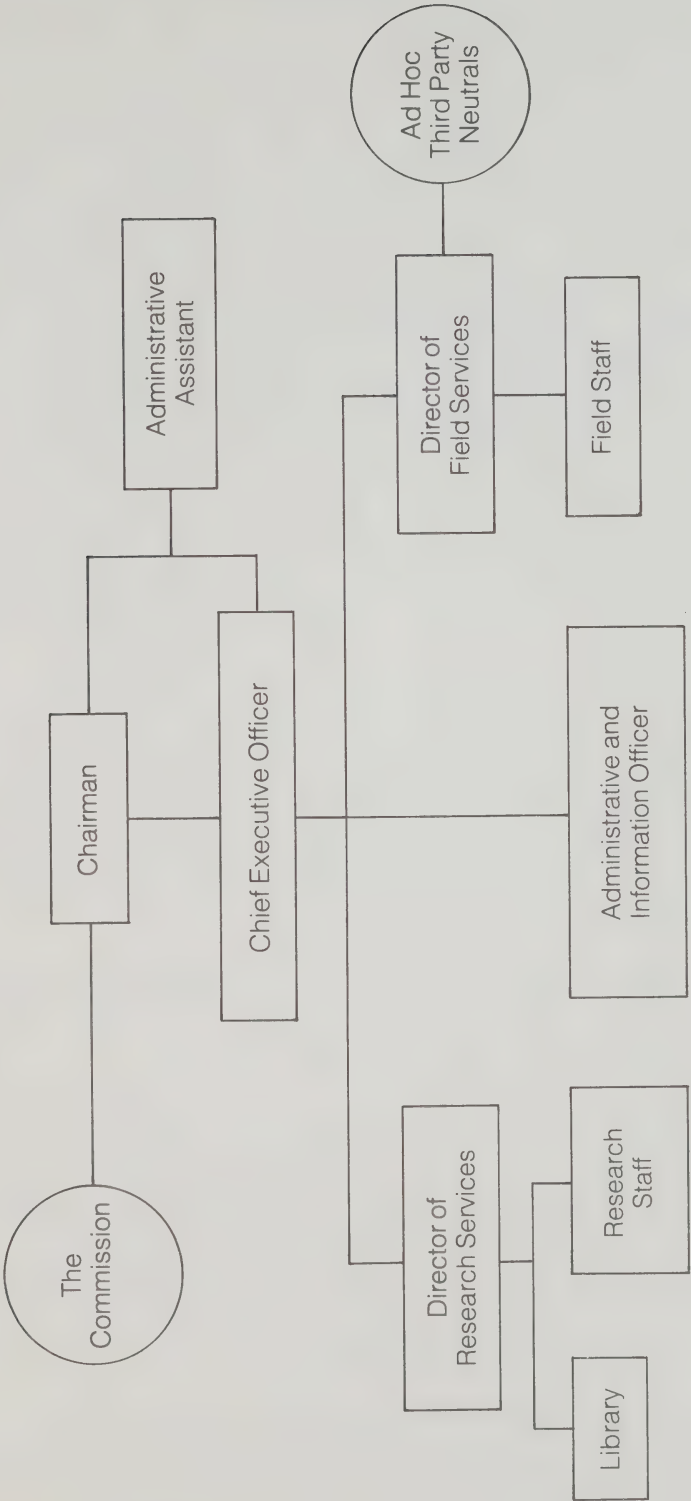


J.A. (SAM) McKEOWN
Director of Field Services



EDWARD M. AIM
Director of Research Services

Organization Chart: The Education Relations Commission



III STAFF ACTIVITIES

1. Field Services

(a) Liaison Activities

The Commission maintains its awareness of negotiations between teachers and school boards through its Field Services staff. Each member of Field Services is responsible for monitoring the negotiations in a specific region of the Province. This regular contact, by both phone and on-site visits, enables the individual Field Services Officer to gain an understanding of emerging issues in collective bargaining and to become thoroughly familiar with the parties and important developments at the local level. In turn, the parties become better acquainted with the Commission's representatives and more knowledgeable about the Act and the Commission's policies, procedures and resources. Through this exchange, progress reports are gathered and procedures under the Act are clarified. In addition, Field Services staff are responsible for ensuring that statutory requirements are fulfilled and that last offer and strike votes are properly conducted and supervised.

Maintaining an intimate awareness of negotiations between branch affiliates* and school boards is particularly advantageous when appointments of third party neutrals by the Commission become necessary. In making judgments regarding the appropriateness or timing of an appointment and/or the individual to be named as mediator or fact finder in any given area, the Commission has been able to rely on the first-hand information and advice of its Field Services staff.

In the 1980-81 year, Field Services has introduced a greater degree of *planning* into the appointment process. Field Services staff now formally analyze all upcoming sets of negotiations early in the negotiation year. The analyses include an assessment of the probable degree of difficulty of each situation and the identification of possible troublesome issues and potential barriers or stumbling blocks to settlement. Their analyses include, as well, recommendations on the style, timing and type of third party assistance appropriate to each situation. This material is summarized and evaluated against past historical developments in the particular teacher/school board relationship. Through this system, more effective and economical appointments have emerged. Moreover, more informed decisions concerning third party appointments have resulted.

Field Services staff members no longer undertake mediation assignments. As recently as a year ago, staff members were assigned mediation tasks for

*A branch affiliate is composed of all the teachers employed by a board who are members of one of the Provincial teachers' federations or associations. A branch affiliate is comparable to a local union.

the Commission when such appointments seemed suitable and desirable. A decision was made by the Commission in 1980 to discontinue this practice. The Commission felt, and continues to feel, that direct involvement in negotiations by its staff would jeopardize the monitoring function of Field Services and the neutrality of the Commission. As a consequence, all formal mediation is now undertaken by *ad hoc* third party neutrals. The Commission has developed a highly qualified, competent and totally professional group of third party neutrals upon which it can draw.

In addition to the monitoring and appointment process, Field Services staff members are intensively involved in both the planning and production of all of the Commission's workshops and **Technical Assistance** projects (see section (b)(i) below). They are responsible, as well, for the selection, training, evaluation, and professional development of the Commission's neutrals.

(b) New Programs

To the services it makes available to branch affiliates and school boards, the Commission officially added a preventive mediation program, administered by the Field Services unit. Referred to as **Technical Assistance**, the program is concerned with assisting the parties to develop an improved relationship. Its focus is on the search for new processes (within the adversary system) and attitudes, so that the two parties in collective bargaining can interact more effectively and with somewhat less friction. In contrast to **conventional** mediation, Technical Assistance is normally conducted outside the context of negotiations. The Commission also currently offers a formal **Grievance Mediation** program. During the reporting year, brochures outlining Technical Assistance and Grievance Mediation were printed and distributed to all Provincial teacher and trustee groups and to local school boards and branch affiliates.

(i) Technical Assistance

Field Services staff members were involved with three jurisdictions — Haldimand, Lambton and East Parry Sound — in activities designed to improve communications and relationships between the parties. The most extensive and intensive form of assistance was offered in East Parry Sound where a steering committee composed of two teachers representing each branch affiliate (Federation of Women Teachers' Associations of Ontario, Ontario Public School Men Teachers' Federation and the Ontario Secondary School Teachers' Federation), two trustees and two administrators, plus one member of the Field Services staff of the Commission were responsible for getting the program started. As a result of the efforts of this committee, a group of 34 people (teachers from all of the branch affiliates, trustees and administrators) attended three weekend residential skill-building workshops which were designed and implemented by Field Services Officers of the

Commission. In June of 1981, the trustees of the East Parry Sound Board of Education and both the elementary and secondary panels ratified two-year collective agreements.

It should be stressed that Technical Assistance is offered only after *both* parties in a jurisdiction request ERC involvement.

(ii) Grievance Mediation

This program is designed to assist the parties in resolving differences between them which arise from the interpretation, application, administration or alleged contavention of the collective agreement. The use of this procedure does not preclude the parties from proceeding to arbitration if the matter is not resolved through mediation.

One purpose of grievance arbitration is to alleviate the buildup of negative attitudes which develop within a system because of unresolved grievances. Such grievances often become issues in negotiations. Moreover, grievance mediation is a method of solving disputes as close to the source and as quickly as possible. Lastly, grievance mediation is much less expensive than arbitration.

During the reporting period, the Commission appointed only one grievance mediator. A speedy and acceptable resolution to the problem occurred. Based on the number of inquiries from the parties, there are indications that this system of third party resolution will be utilized to a considerable extent in the future. Because it is a new service, there are two matters which must be further addressed by Commission staff. First, the parties must be made aware of the existence of the service and second, they must become aware of the types of issues most amenable to resolution in grievance mediation. The Commission is committed to this type of dispute resolution and is developing its capability in this area (see section (c) below).

(c) Selection and Training of Third Parties

Section 60 (1)(e) of the Act directs the Commission "to select and where necessary, to train persons who may act as mediators, fact finders, arbitrators, and selectors."

(i) Selection

The Commission selects persons from a list of qualified fact finders and mediators to assist in collective negotiations as required. Its roster includes men and women from a variety of occupations including labour/management arbitrators, labour lawyers, academics and former educational administrators and teachers. Each year, the Commission continues to recruit a number of third parties who are bilingual.

Today, individuals who are utilized by the Commission not only must bring strong qualifications to the ERC but also must participate in the Commission's training programs. As well, the Commission now evaluates its third parties and only those individuals whose performance is superior continue to be appointed. The Commission continues to seek individuals whose background, experience and understanding of collective bargaining in education renders them eligible to provide the kind of third party assistance required by the ERC.

(ii) Training

During the reporting year, three training sessions were held for third party neutrals. As in other years, one session was held for fact finders and one for mediators. The Commission continued to recruit new individuals with high qualifications and from a variety of backgrounds: six were academics whose training is in industrial relations, six were lawyers specializing in labour law, one was an ex-teacher, and five were former school trustees or administrators. In addition to the workshops for neutrals, a workshop for newly appointed Directors of Education was held in order to familiarize them with the services and policies of the Commission.

For the first time, the Commission held a training session for ***grievance*** mediators. Eight mediators from across the Province attended a two-day workshop which was designed to acquaint them with the arbitral jurisprudence developing in Ontario education and with the unique aspects of the grievance mediation process. The purpose was to develop a group of experts from which the Commission can appoint as the need arises.

In the workshop on ***conventional*** mediation, various styles, techniques and strategies of mediation were explored during a two-day period. This seminar was an extension of a simulation which was utilized last year to highlight the dynamics of, and behaviour in, the collective bargaining process. The Commission is attempting, through both recruitment and training, to add to its contingent a group of "intensive" mediators. A recent U.S. study has confirmed what many labour relations experts believe, viz. "intensive" or "active" mediators are likely to be more effective in facilitating agreements between the parties than mediators who act with low intensity*. The mediation workshop this year, therefore, focused on strategies for intensive mediation.

*"Mediator intensity" refers to a mediator's level of immersion or involvement in the process of dispute resolution. A mediator who acts with low intensity usually focuses on identifying the issues in dispute, probes the problems which lie behind the issues and generally assists the parties to improve their lines of communication. At higher levels, a mediator more actively assists the parties in setting priorities, "packages" issues for discussion and trade-off, and even offers alternative solutions to the dispute. At the highest level of intensity, it is not uncommon for a mediator to use persuasion and other forms of pressure to encourage settlement. See Paul F. Gerhart and John E. Drotning. "A Six State Study of Impasse Procedures in The Public Sector: Final Report". Unpublished study in connection with U.S. Department of Labor Contract No. J-9P-7-0149.

A workshop was also held for new fact finders to acquaint them with the Act, the financial aspects of education in Ontario, and issues often involved in Ontario teacher/board bargaining. The training session for experienced fact finders included a fact finding simulation which illustrated the various problems a third party will face and methods of dealing with such problems.

2. Research Services

Research Services gather and provide information to assist all parties in negotiations through numerous publications on salaries and other negotiation issues, and by responding to requests for data. As well, they undertake a broad variety of research tasks for the Commission.

(a) Information

The basic resource for the Commission's information base is the collective agreement. Approximately 200 agreements are analyzed annually by Research Services' staff. (The number of collective agreements *negotiated* annually varies with the number of multi-year agreements.) Information related to salaries, benefits and working conditions is extracted from these agreements and placed in a computerized data bank. During the 1980-81 year, Research Services processed more than 1,000 requests for information.

In cooperation with the Ministry of Education, the Commission continued to receive information regarding school board expenditures for a variety of allowances and benefits which are provided to teaching staff, as well as enrolment and staffing data. These are available to the parties upon request.

The Commission's reference library contains a copy of all collective agreements, public fact finding reports, arbitration awards, final offer selection awards, and ERC determinations. The library may be used by interested individuals.

Last year, with respect to the information it provides, the Commission reported that it would pursue the following:

1. The provision of *non-teacher* economic and labour market data to the parties, and to third parties appointed by the Commission;
2. The improvement of computer processing facilities to include greater capabilities in data analysis.

There was progress on both of these matters. With respect to the first, efforts to obtain salary and other employee benefit information for "professionals" through liaison with other organizations such as the Pay Research Bureau proceeded, although results thus far have been below expectations.

Staff, however, have developed a package of information related to the Consumer Price Index, Industrial Composite (i.e., weekly wages) and Ontario base rate changes, which is updated on a regular basis and made available to all parties in negotiations.

With respect to the second matter, late in the reporting year and following a feasibility study, a mini-computer was purchased. When fully operational, it will enable faster updating of the Commission's collective agreement information base and will result in an increase in Research Services' responsiveness to information requests. The focus in the coming year will be the development and implementation of programs (software) which will allow the equipment to realize these goals.

During the reporting year, Research Services also instituted a faster procedure for entering new collective agreement information in its data bank in order to increase the timeliness of its data. The parties have been asked to relay salary data to the Commission immediately following ratification of a collective agreement. In the past, analysis of all terms and conditions contained in a written collective agreement has awaited the filing of a complete and executed copy with the Commission.

(b) Research

Staff undertook several studies which focused either on general labour relations matters relevant to teacher/school board bargaining in Ontario or on items specifically related to the negotiations process established by the Act.

Further, the Commission contracted with an independent researcher to study teacher/school board relationships. He will examine a cross-section of teacher/board situations, attempting to determine the key factors associated with variations in relationships.

In its continuing efforts to inform itself regarding the effects of sanctions upon students, the Commission is funding a research endeavour to study the strike in the Sudbury secondary panel during the 1979-80 school year. Comparisons will be made between students from this jurisdiction entering university following the strike and university-bound students graduating from the same school system in non-sanction years.

Another research project being sponsored by the Commission will examine the impact and effectiveness of the dispute resolution procedures available within the Act. This study will consider the bargaining process since 1975.

(c) Publications

A variety of publications dealing with insured employee benefits, pupil teacher ratios, retirement gratuities, leave provisions, average weighted grid salaries, compensation statistics and disciplinary procedures was issued by the Commission during the 1980-81 year and was made available to all parties. (See Appendix A)

IV NEGOTIATIONS 1980-81

1. The Parties

The parties to negotiations are the 2,200 trustees and the 106,000 teachers who represent and work in the approximately 200 school boards in the province. In general terms, there are two kinds of school boards. The Boards of Education (76) are divided into elementary and secondary panels. The Roman Catholic Separate School Boards (48) provide Catholic education in the province. In many cases, these Boards are geographically different from each other. A second difference is illustrated by the fact that the R.C.S.S. Boards do not have a secondary panel. Provincial funding for the R.C.S.S. Boards is provided to grade 10 only. Such Boards offering grades 11, 12 and 13 are actually operating in part as private schools.

Both the trustees and the teachers are organized in a grouping of organizations under a parent body. For the teachers, the parent body is the Ontario Teachers' Federation (OTF). This organization is made up of representatives of:

1. The Federation of Women Teachers' Associations of Ontario (FWTAO);
2. The Ontario Public School Men Teachers' Federation (OPSMTF);
3. The Ontario Secondary School Teachers' Federation (OSSTF);
4. The Ontario English Catholic Teachers' Association (OECTA);
5. L'Association des enseignants franco-ontariens (AEFO);

Bargaining rights reside with the branch affiliates of the above bodies.

The trustee parent organization is the Ontario School Trustees' Council (OSTC) which is composed of representatives from:

1. The Association of Large School Boards of Ontario (ALSBO);
2. The Ontario Public School Trustees' Association (OPSTA);
3. The Ontario Separate School Trustees' Association (OSSTA);
4. L'Association française des conseils scolaires de l'Ontario (AFCSO);

5. The Northern Ontario Public and Secondary School Trustees' Association (NOPSSTA).

During 1980-81, approximately 45,800 Ontario teachers negotiated the terms and conditions of their employment. The number of school boards and the branch affiliates, by type, and the number of teachers employed by those boards are summarized in Table 1.

Table 1 Number of School Boards, Branch Affiliates, and Teachers in Ontario, 1980-81

Board Classification	Number of Boards	Number of Branch Affiliates				
		FWTAO	OPSMTF	OECTA	AEFO	OSSTF
Boards of Education	76*	76	76	-	25	76
Metro. Toronto School Board*	1	1	1	-	-	-
County and District Combined Roman Catholic Separate School Boards	48	-	-	47	40	-
Other Public School Boards	42	4	7	-	-	-
Other Separate School Boards	13	1	1	5	4	-
Secondary School Boards	1	-	-	-	-	1
Boards on Crown Lands, Hospital and Hydro Centres and the Provincial Schools Authority	23	8	8	-	4	2
Total	204	90	93	52	73	79
Number of Teachers	106,206	30,066	14,766	19,478	5,459	36,257

* The Metropolitan Toronto School Board, which operates schools for the trainable retarded, does not operate elementary and secondary schools as such; however, its teachers are members of the elementary school branch affiliates, FWTAO and OPSMTF.

2. Renewals under the Act

It should be noted that the number of negotiations during any given year will vary because of the existence of multi-year agreements. That is, not every agreement comes up for renewal every year. The 204 school boards and 387 branch affiliates, referred to in Table 1, conducted 132 sets of negotiations during 1980-81, as indicated in Table 2.

Table 2 Status of Negotiations, 1980-81

Board Classification	Not Subject to Negotiation*	Subject to Negotiation
Boards of Education — Elementary	34**	42
Boards of Education — Secondary	32**	44
County and District Combined Roman Catholic Separate School Boards	25	23
Other School Boards	8	23
Total	99	132***

* Concluded a multi-year settlement during a previous year.

** Manitoulin Elementary and Secondary originally had a two-year term, 1979-81. During 1980-81 these were re-negotiated to a one-year term (1979-80) with the new Elementary agreement having a term of 1980-82 while the secondary having a term of 1980-81.

*** In addition to these 132 situations, four secondary (Bruce, Central Algoma, Lennox and Addington and Norfolk) which had not settled during 1979-80 continued their negotiations into the 1980-81 period and concluded multi-year settlements which covered the 1980-81 agreement year and in one instance the 1981-82 agreement year.

3. Duration of Agreements

Table 3 provides a breakdown of the duration and termination dates of settlements reached *during* 1980-81.

Table 3 Duration and Termination Dates of Settlements
Concluded in 1980-81

Board Classification	Not Settled Aug.	1 Year 31/81	2 Years Aug. 31/82	3 Years Aug. 31/83
Boards of Education — Elementary	-	17	24	1
Boards of Education — Secondary	1*	21	22	-
County and District Combined Roman Catholic Separate School Boards	-	12	11	-
Other School Boards	-	19	4	-
Total	1	69	61	1

* Leeds and Grenville.

One of the significant developments over the past two years has been the number of *multi-year* agreements negotiated by the parties. Table 4 presents the number of multi-year agreements reached during each year since the inception of the Act. A clear trend toward multi-year agreements began in the 1978-79 reporting year and has continued in 1980-81. The importance of multi-year agreements cannot be over-emphasized. They introduce a measure of stability in teacher/school board relationships and bargaining, and generally reduce the number of third party appointments by the ERC.

Table 4 Term of Agreements, 1975-76 to 1980-81

Term of Agreement	1975-76		1976-77		1977-78		1978-79		1979-80		1980-81	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Elementary: Agreements on File	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0
Term: 8 Months	8	10.5	-	0.0	-	0.0	-	0.0	-	0.0	-	0.0
1 Year	56	73.7	63	82.9	68	89.5	57	75.0	30	39.5	18	23.7
1st Yr. of Multi-Yr.	8	10.5	1	1.3	6	7.9	13	17.1	33	43.4	25	32.9
20 Months	4	5.3	4	5.3	1	1.3	-	0.0	-	0.0	-	0.0
2nd or 3rd Yr. of Multi-Yr.	-	0.0	8	10.5	1	1.3	6	7.9	15	17.1	33	43.1
Secondary: Agreements on File	76	100.0	76	100.0	75	100.0	76	100.0	76	100.0	76	100.0
Term: 8 Months	5	6.6	-	0.0	-	0.0	-	0.0	-	0.0	-	0.0
1 Year	53	69.7	56	73.7	70	93.3	53	69.7	25	32.9	22	28.9
1st Yr. of Multi-Yr.	10	13.2	3	3.9	1	1.3	22	28.9	29	38.1	23	30.3
20 Months	7	9.2	7	9.2	1	1.3	-	0.0	-	0.0	-	0.0
2nd or 3rd Yr. of Multi-Yr.	1	1.3	10	13.2	3	4.0	1	1.3	22	28.9	31	40.8
R.C.S.S.: Agreements on File	48	100.0	48	100.0	48	100.0	48	100.0	48	100.0	48	100.0
Term: 8 Months	11	22.9	-	0.0	-	0.0	-	0.0	-	0.0	-	0.0
1 Year	27	56.3	38	79.2	41	85.4	38	79.2	17	35.4	12	25.0
1st Yr. of Multi-Yr.	3	6.3	2	4.2	4	8.3	6	12.5	25	52.1	11	22.0
20 Months	6	12.5	5	10.4	1	2.1	-	0.0	-	0.0	-	0.0
2nd or 3rd Yr. of Multi-Yr.	1	2.1	3	6.3	2	4.2	4	8.3	6	12.5	25	52.0
Total: Agreements on File	200	100.0	200	100.0	199	100.0	200	100.0	200	100.0	200	100.0
Term: 8 Months	24	12.0	-	0.0	-	0.0	-	0.0	-	0.0	-	0.0
1 Year	136	68.0	157	78.5	179	89.9	148	74.0	72	36.0	52	26.5
1st Yr. of Multi-Yr.	21	10.5	6	3.0	11	5.5	41	20.5	87	43.5	59	29.0
20 Months	17	8.5	16	8.0	3	1.5	-	0.0	-	0.0	-	0.0
2nd or 3rd Yr. of Multi-Yr.	2	1.0	21	10.5	6	3.0	11	5.5	41	20.5	89	44.0

Note: Windsor Secondary did not have a collective agreement in effect during 1977-78.

4. Persons Appointed to Assist — Mediators

Another significant and positive change occurred in the 1980-81 round; in this case, the matter concerns third party assistance. Mediators, or "persons to assist" as they are referred to under section 13 of the Act, can be appointed at any time, either at the direction of the Commission or, with Commission concurrence, at the request of one or both parties. While a mediator may help the parties fashion their own solution to the conflict, labour relations experts suggest that, with the passage of time, the parties in public sector negotiations tend to rely on third parties to an excessive degree. Therefore, it is important to note that almost *three-quarters* of the negotiations in 1980-81 settled *without* the involvement of a mediator (see Table 5) as compared to less than *two-thirds* in the previous year. The 1980-81 ratio was one of the lowest since the passage of the Act.

Table 5 Assignment of Mediators, 1980-81

Board Classification	Situations Negotiating 1980-81	No Mediation	Mediation Only	Mediation Pre Fact Finding Only	Mediation Post Fact Finding Only	Mediation Pre and Post Fact Finding
Boards of Education — Elementary	42	34	2	-	6	-
Boards of Education — Secondary	44	25	5	3	9	2
County and District Combined Roman Catholic Separate School Boards	23	15	2	-	6	-
Other School Boards	23	23	-	-	-	-
Total	132	97	9	3	21	2

There was also some shift in the *timing* of mediation assistance. This, too, warrants comment. The Matthews Commission suggested that the ERC place some emphasis (albeit with the concurrence of the parties) on mediation assistance *prior* to mandatory fact finding. The feeling is that this would enable the mediator to work with the parties before their positions harden. The

ERC concurs with this judgment if local circumstances are appropriate. The Commission began to encourage “pre fact finding” mediation during the 1980-81 round. In this light, the figures in Table 5 are interesting. Of the thirty-five mediation appointments, 40% were made prior to fact finding, contrasted with 27% in 1979-80 and 35% in 1978-79. The Commission has taken steps to ensure that this approach continues in the 1981-82 negotiation round.

5. Fact Finding

Fact finding affords an opportunity for the parties to clarify and narrow the differences which exist between them in order to reach a settlement when the collective agreement expires. The process becomes mandatory once August 31 has passed (the contract expiry date in all teacher/school board collective agreements). Further, it is a necessary procedure under the Act before teachers can take strike action or before a school board can initiate a lock-out. The fact finding process also recognizes the public’s right to know the substantive and procedural issues of a dispute as well as each party’s position prior to any possible interruption to the normal school program.

The Commission may appoint a fact finder at any time during negotiations either upon the request of one or both parties or if the Commission deems that the parties are at an impasse and would benefit from such assistance. The fact finder, a third party neutral, investigates the particular local situation and then files a written report with the Commission. A time limit of thirty days is established in the Act for the fact finder to meet with the parties, examine their written submissions, listen to oral arguments, write the report and submit it to the Commission. The Commission, in turn, immediately delivers the report to the parties.

The report must set out those matters upon which the parties have agreed as well as those upon which they have not agreed. A fact finder may make recommendations regarding any matter which he or she feels is relevant and on any of the items in dispute. The fact finder’s recommendations, while not binding upon the parties, often narrow their differences, or are accepted by the parties in whole or in part.

Once the parties receive their report, they have a 15-day period in which to reach a settlement before the report is made public. If an agreement is not negotiated during this time, the report must be made public by the Commission. Should the parties reach settlement at any time during fact finding, the process is automatically terminated.

It is clear from experience in the first five years since the passage of the Act that fact finding has the potential to assist and, in many cases, actually has assisted the parties in reaching negotiated settlements. To date, the Commission and the parties have generally found it to be a useful process which has

worked reasonably well. At the same time, there were observations made before the Matthews Commission that not only were negotiations far too long but also that in some cases fact finding had contributed to the delay. There were also submissions that fact finding in some instances was ineffective and perhaps over-utilized by some of the parties.

Under any labour legislation (including Bill 100), there is a very real danger that a process such as fact finding will be ignored or misused by the parties, thereby weakening the philosophical thrust of the Act and undermining its effectiveness. As a consequence, the Commission has encouraged the parties to utilize fact finding only if absolutely necessary. The preference, wherever possible, is to settle prior to the point when, under the Act, the Commission must appoint a fact finder. Second, the Commission has attempted to strengthen the fact finding process by trying to convey to the parties, and to its third party neutrals, that if a settlement cannot be reached without fact finding, the ensuing process should be one out of which a meaningful fact finder's report will emerge. This report would clearly and concisely address the issues in dispute and, if at all possible, present to the parties at least the broad outlines of a settlement. Finally, during the past year, the Commission has recruited and appointed individuals with extremely high qualifications and experience in labour-management and/or teacher/school board relations; individuals who also have the expertise to write outstanding and effective fact finding reports.

A provincial review of fact finding for the 1980-81 agreement year is shown in Table 6. Virtually all fact finder appointments were made after the expiration of the collective agreement. The number of appointments is considerably less than that of a year ago in *both* absolute and percentage terms. Of the 132 sets of negotiations during the 1980-81 agreement year, 49 (37%) required fact finding assistance, compared to 109 appointments out of 180 sets of negotiations (61%) in the previous year. Moreover, the 1980-81 experience *reversed a trend* which saw increased utilization of the fact finding process year after year since the passage of the Act.

Finally, a number of disputes are resolved prior to the writing and/or release of the report to the public. Table 6 reveals that, in 87% of the cases where appointments were made, reports were written and released to the parties. The parties came to a negotiated settlement immediately after receiving the fact finder's report and prior to the report being made public in 25% of the cases.

Table 6 Fact Finder Appointments, Reports Released to Parties and Reports Made Public, 1980-81

Board Classification	Fact Finder Appointments	Reports Released To Parties	Reports Made Public
Boards of Education — Elementary	13	12	9
Boards of Education — Secondary	22	20	17
County and District Combined Roman Catholic Separate School Boards	8	7	5
Other School Boards	6	4	3
Total	49	43	34

6. Strikes, Lock-Outs and School Closings

Out of the 132 sets of negotiations referred to in Table 1, only two ended in teacher sanctions. There was a strike by secondary school teachers in Leeds and Grenville and by separate school teachers in Essex County. The latter sanction had a duration of nine instructional days. The Leeds and Grenville strike lasted 30 instructional days (six weeks) and threatened to run into the ensuing (1981-82) school year. It did continue through the summer of the 1981 but there was a negotiated settlement in early September and the schools in Leeds and Grenville opened at the beginning of the 1981-82 school year.

Two other secondary school strikes (in Norfolk and Bruce Counties) took place in the fall of 1980, each of which was a product of the previous (1979-80) negotiation round. Details of all four sanctions are provided in Table 7. The four sanctions in the 1980-81 year contrast with eight during the 1979-80 year. A complete record of sanctions since the passage of the Act is included in Appendix B.

Table 7 Strikes, Lock-outs and Closing of Schools, September 1, 1980 to August 31, 1981

School Board	Number of Schools	Number of Teachers	Number of Students Affected	Type of Sanction	Duration of Sanction	Final Settlement
Bruce Secondary*	7	222	3,668	Work-to-Rule Withdrawal of Services (2 and 38 instructional days respectively)	Oct. 1, 3 Oct. 2, 4 - Nov. 27	Negotiated
Norfolk Secondary*	5	238	3,797	Work-to-Rule Withdrawal of Services (1 and 47 instructional days respectively)	1 Day, each school Oct. 2 - Dec. 10	Voluntary Binding Arbitration
Essex RCSS	30	502	9,412	Withdrawal of Services (9 instructional days)	Mar. 16-Apr. 2	Negotiated
Leeds & Grenville Secondary	7	377	5,999	Withdrawal of Services (30 instructional days)	May 7 - Aug. 31	Not Settled**

* Carried over from the 1979-80 negotiation round.

** Negotiated settlement September 7, 1981.

7. Voluntary Binding Arbitration/Final Offer Selection

Instead of a strike and/or lock-out, the parties can mutually agree to choose one of two options of third party resolution: voluntary binding arbitration or final offer selection. If a negotiated settlement is reached at any time during these procedures, the process is then terminated. Table 8 indicates the incidence of both types of resolution during the reporting period.

Table 8 Agreements Reached by Voluntary Binding Arbitration or Final Offer Selection, 1980-81

Board Classification	Agreements Reached by Voluntary Binding Arbitration	Agreements Reached by Final Offer Selection
Boards of Education — Elementary	1	-
Boards of Education — Secondary	2	-
County and District Combined Roman Catholic Separate School Boards	-	-
Other School Boards	2	-
Total	5	-

(a) Voluntary Binding Arbitration

Under the voluntary binding arbitration procedure, the parties may refer all matters remaining in the dispute to either an arbitrator or a board of arbitrators. Within 7 days of the appointment of the arbitrator or chairman of the arbitration board each party must submit to the other party and to the arbitrator/chairman, written notice of all matters agreed upon during negotiations and all matters remaining in dispute. The arbitrator or board of arbitration is responsible for determining procedures which give both parties full opportunity to present their evidence and make their submissions.

Within 60 days of the appointment of the arbitrator/chairman, or such longer period of time as the two parties may agree to, the arbitrator or board of arbitration must provide the parties with a written report of his/its decision. The decision of the arbitrator or board of arbitration is final and binding and the parties are required, within 30 days following receipt, to incorporate within a signed agreement the matters agreed to in negotiations and the decision rendered through arbitration.

Five agreements were concluded during 1980-81 through voluntary binding arbitration. In one of the sanction situations of 1980-81, the parties also adopted this form of resolution.

(b) Final Offer Selection

Under this resolution procedure, each party's final position concerning the items remaining in dispute, together with any supporting evidence, is presented to a selector and the other party within 15 days of appointment of the selector. The parties may then provide written responses to the other party's position and the selector may hold a hearing.

Within 15 days of the hearing (or notice from the parties to dispense with the hearing), the selector must choose one party's final offer in its entirety. This offer is then incorporated into an agreement which also includes those items agreed to by the parties during negotiations.

Final offer selection was not used during 1980-81.

8. Grievance Arbitration

Grievance procedure clauses in some collective agreements specify that the Commission be asked to appoint a single arbitrator or chairman of an arbitration board to resolve a ***grievance*** as the final and binding step of the procedure.

During 1980-81, the Commission made 14 such appointments four of which were single arbitrators and 11 of which were chairmen of arbitration boards. The Commission made eight appointments during 1979-80. Although the figures are not large, the percentage increase (87%) may be significant. Based on the number of grievance arbitration awards filed with the Commission, indications are that this area is growing.

Table 9 Appointments Concerning Grievance Arbitration,
1980-81

Board Classification	Number of Appointments by ERC	Nature of Appointments
Boards of Education — Elementary	1	Chairman, Board of Arbitration
Boards of Education — Secondary	8	3 Single Arbitrators 5 Chairmen, Boards of Arbitration
County and District Combined Roman Catholic Separate School Boards	5	Chairmen, Boards of Arbitration
Other School Boards	-	-

9. Supervised Votes: Last Offer, Strike and Ratification

Prior to any strike activity, the teachers must first request (in writing) the Board's last offer concerning all matters agreed upon and all matters remaining in dispute. A secret ballot vote on the board's last offer must then be conducted under the Commission's supervision. If the teachers reject this offer, a second secret ballot vote to determine whether the teachers favour a strike may then be held, again under the supervision of the Commission.

As indicated in Table 10, during 1980-81 the Commission was called upon to supervise only five votes by teachers on a school board's last offer and three votes on strike action. The Commission also supervised three ratification votes on agreements made after the termination of a strike. Table 10 also includes information on the number of last offer and strike votes supervised by the ERC since the inception of the Act. In 1980-81, in both percentage and absolute terms, there was a smaller number of votes than in any previous reporting period. In other words, in absolute and relative terms, *fewer negotiations went to the point of sanctions in 1980-81 than in any previous period.*

Table 10 Supervised Board's Last Offer, Strike and Ratification Votes, 1975-76 to 1980-81.

Vote	1975-76	1976-77	1977-78	1978-79	1979-80	1980-81
Board's Last Offer Votes						
Elementary	-	-	2	1	1	-
Secondary	15*	5	8	9	12	1
R.C.S.S.	-	5	5	3	12	3
Other	-	-	-	1	1	1
Total	15	10	15	14	26	5
Strike Votes						
Elementary	-	-	1	1	1	-
Secondary	15*	4	7	4	9	1
R.C.S.S.	-	1	4	2	7	2
Other	-	-	-	1	1	-
Total	15	5	12	8	18	3
Ratification Votes						
Elementary	-	-	-	-	2	-
Secondary	-	1	5	2	4	2
R.C.S.S.	-	-	1	-	2	1
Other	-	-	-	-	-	-
Total	-	1	6	2	8	3

*Note: Boards of Education within Metropolitan Toronto counted individually.

10. Determination of Good Faith Bargaining

Two complaints of failure to bargain in good faith were filed with the Commission during 1980-81. A third complaint filed during a previous reporting period was also dealt with. The disposition of these complaints can be seen in Table 11. A complaint filed by the teachers of Hamilton-Wentworth Roman Catholic School Board is still outstanding.

Table 11 Good Faith Bargaining Charges, 1980-81

Complainant	Respondent	Disposition
Branch Affiliate of O.S.S.T.F.*	Stormont, Dundas and Glengarry County Board of Education	Terminated
Branch Affiliate of O.S.S.T.F.	Durham Board of Education	Terminated
T. Mangan — O.E.C.T.A.	Hamilton-Wentworth R.C.S.S. Board	Pending

* Initiated during the previous year.

11. Advisements

All sanction situations were terminated through voluntary negotiations by the parties. A strike by District 37 OSSTF against the Leeds and Grenville Board of Education, however, presented the Commission with a complex and unique situation. Over the years, the Commission has consistently followed the principle that every dispute must be examined and treated on its own merits. This dispute began on May 7 when, after 15 months of negotiations, the teachers initiated legal strike action against the Board. By early June, the students had missed 25 days (five weeks) of school and the situation was deteriorating. It was clear that the dispute would not settle before the end of June. For the first time under the Act, the Commission was faced with the possibility of a total withdrawal of services which would span two school years.

As a consequence, the Chairman, on the direction of the Commission, wrote a letter to the Minister of Education on June 11. This letter, which was read in the Legislature, recommended that the Minister:

“consider the enactment of legislation before the adjournment of the Legislature to terminate the secondary school strike in Leeds and Grenville and that proclamation of legislation by the Lieutenant Governor in Council be deferred until such time as an advisement under section 60 (1)(h) is tendered by the Commission.”

Bill 124, an Act Respecting the Leeds and Grenville County Board of Education and Teachers Dispute, was passed on July 3 but not proclaimed. By the time Bill 124 was passed, secondary school students in Leeds and Grenville had missed six weeks of school, which included their final examinations. Significant features of this Bill included:

1. Final offer selection as a means of resolution of all items remaining in dispute;
2. Choice of the selector by the Commission;
3. Term of the agreement to cover the period from September 1, 1980 to August 31, 1983.

The fact that this legislation was passed but not proclaimed allowed the Commission to offer some assurance to parents, students and the public that their concerns were being seriously considered. It also allowed the Commission to investigate the matter of jeopardy without interrupting or freezing the negotiations. That is, the terms of Bill 124 put pressure on both parties to settle the dispute on their own.

In July, after passage of Bill 124, the ERC notified the parties that it was calling for submissions on jeopardy from interested individuals and organizations in the community. The Commission felt that this could be done under Bill 124 without the usual chilling effects on negotiations because of the pressure that the Bill maintained on the parties.

The parties met with Dr. W. Marcotte, a mediator appointed by the Commission, on August 17. Intensive mediation sessions continued throughout the rest of the month and resulted in a tentative agreement which was ratified by the teachers on Labour Day, September 7, 1981. School opened the next day for the fall term as scheduled.

APPENDIX A PUBLICATIONS ISSUED DURING 1980-81

Teacher/Board Collective Agreements: Individual Summaries

A Provincial Overview

Grievance Arbitration: Summaries of arbitration decisions arising out of differences between the parties under the School Boards and Teachers Collective Negotiations Act.

Teacher Placement: Grid Distributions of Ontario Teachers, Total Staff and Enrolment, January 31, 1981

Monograph Series:

No. 16: Historical Analysis of Collective Agreements, 1975-76 to 1979-80

No. 17: Leave Provisions, 1979-80

No. 18: Compensation Statistics, 1979-80

No. 19: Weighted On-Grid Average Salaries, 1979-80 and 1980-81

No. 20: Pupil-Teacher Ratios, 1976-80

No. 21: Insured Benefit Plans and Retirement Gratuities, 1980-81

Clause File Series:

No. 15: Deferred Salary and Early Retirement Incentive Plans, 1980-81

No. 16: Vacancy and Transfer Provisions, 1980-81

No. 17: Disciplinary Procedures and Other Provisions Affecting Employment Security: Teacher Evaluation, Just Cause, Withholding of Increment and Access to Personnel Records 1980-81

Brochures:

Technical Assistance: A Program Designed to Improve Relationships Between School Boards and Teachers.

The Education Relations Commission and Grievance Mediation

APPENDIX B SANCTION RECORD

Sanction Record, 1975-76 to 1980-81

Sanction Record, 1975-76 to 1980-81

Year/ School Board	Total Instructional Days Lost	Inst. Days Lost Excl. Work-to-Rule
1975-76 Secondary (6):*		
**Central Algoma	35	35
Kent County	66.5	13.5
**Kirkland Lake	44	44
**Metro Toronto	38	38
**Sault Ste. Marie	46	13
**Windsor	27	26
Year Average	42.7	28.2
	(40.6)***	(32.7)***
1976-77 Secondary (2):		
Peel	44	0
Stor., Dundas, Glengarry	24	24
Year Average	34.0	12.0
R.C.S.S.(1):		
Durham		
Year Average	9.0	9.0
1977-78 Secondary (5):		
Essex	16	16
Huron	31	31
Perth	41	0
**Renfrew	73	44
Wentworth	49	16
Year Average	42.0	26.7
R.C.S.S. (1):		
Essex		
Year Average	34.0	34.0
1978-79 Secondary (3):		
Haldimand	36	36
Kirkland Lake	30	26
York County	5	2
Year Average	23.7	21.3
1979-80 Elementary (2):		
Brant	22	22
Peel	14	13
Year Average	18	17.5
Secondary (3):		
Lambton	39	39
North York	40	0
**Sudbury	56	56
Year Average	45.0	47.5
R.C.S.S. (2):		
Frontenac	14	14
Nipissing	18	18
Year Average	16.0	16.0
1980-81 Secondary (3):		
Bruce	40	38
Leeds and Grenville	30	30
Norfolk	48	47
Year Average	39.3	38.3
R.C.S.S. (1):		
Essex	9	9
Year Average	9.0	9.0

* 11 sanctions if Metro = 6.

** An advisement was made pursuant to section 60 (1)(h).

*** Average if Metro = 6.

APPENDIX C STATEMENT OF EXPENDITURES, APRIL 1, 1981 — MARCH 31, 1981

Categories		Budget \$	Actual Expenditures \$
Salaries and Wages		415,200	403,838
Employee Benefits		60,000	52,695
Transportation and Communication		123,900	148,234
Communications	7,500	15,210	
Mailing	8,000	10,015	
Freight	500	319	
Travel-Public Servants	32,900	34,948	
Travel-Others	75,000	87,707	
Services		336,500	326,195
Advertising	1,000	5,403	
Rental, Photo Copier	6,500	7,649	
Data Processing	25,000	28,001	
Housekeeping	0	767	
Conference Expenses	10,000	9,047	
Commissioners	30,000	28,524	
Professional Services	222,500	202,906	
Building Maintenance	500	369	
Equipment Maintenance	1,000	450	
Special Services	40,000	43,079	
Supplies		54,500	57,412
Office Furniture	1,000	0	
Office Machines and Equipment	0	1,076	
Medical Supplies	0	6	
Office Supplies	8,000	2,468	
Printing	45,000	53,862	
Miscellaneous	0	0	
Inter-Branch Transfers	500	0	
Total		990,100	988,368



Ontario

EDUCATION RELATIONS COMMISSION

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Annual Report

1981-82



**Education
Relations
Commission**

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Toronto, Ontario
M5R 3J8

To: The Members of the Legislative Assembly
Province of Ontario

**ANNUAL REPORT
1981-82**

Dear Members:

We have the honour to present the Seventh Annual Report of the Education Relations Commission.

The Education Relations Commission

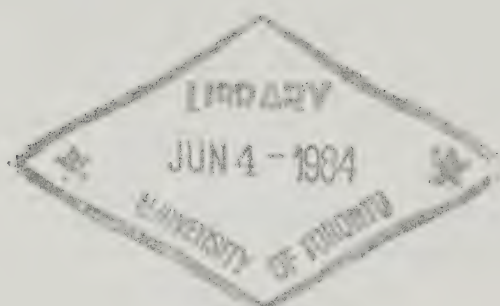


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OVERVIEW AND REPORT HIGHLIGHTS

The Education Relations Commission was established under the provisions of *the School Boards and Teachers Collective Negotiations Act 1975* (hereinafter referred to as the Act or Bill 100). This report covers the activities of the Commission for the period September 1, 1981 to August 31, 1982.

In the 1980-81 Annual Report comment was made of the consensus reached by many teachers and trustee organizations during the hearings of the Matthews Commission that negotiations between teachers and school boards in Ontario took too long and that fact finding (a required step prior to the imposition of sanctions), while useful, was being over-used by the parties.

During the period 1976-77 to 1979-80 the length of time required by the parties to conclude collective agreements increased consistently. Involvement of third parties increased and the extent to which the parties utilized the provisions of the negotiations process also increased significantly.

Due in part to initiatives taken by the Commission particularly with respect to the policy of appointing mediators *prior to fact finding* these disturbing trends were reversed during 1980-81, and the statistical evidence collected during 1981-82 indicates further success in this regard.

Length of Negotiations:

The average length of negotiations decreased from 8.47 months in 1980-81 to 8.07 months in 1981-82. This represents a reduction of 4.7%.

Number of Third Party Appointments

The average number of third party appointments per negotiating situation declined from 1.47 in 1980-81 to 0.72 in 1981-82. In the period from 1975-76 to 1979-80 there had been a consistent increase in the required number of appointments. In 1980-81 a significant reduction occurred with a further sharp reduction in 1981-82. The 1981-82 averages are the lowest recorded in the history of the Commission.

Stages of the Negotiation Process Experienced

In accordance with the other aspects referred to in this overview the average "stage scores" (a measure of how far into the bargaining process the parties proceeded before settlement) had consistently increased during the period 1975-76 to 1979-80. This trend was reversed in 1980-81 and the 1981-82 results indicate a further decline of 12.9% from 3.41 in 1980-81 to 2.97 in 1981-82.

It is encouraging to report that only three strikes occurred during this reporting year. Two of the strikes occurred simultaneously when sanctions were imposed against the Carleton Roman Catholic Separate School Board by the branch affiliates of the Ontario English Catholic Teachers' Association and by L'Association des enseignants franco-ontariens. A sanction was introduced by the branch affiliate of the Ontario Secondary School Teachers' Federation in the West Parry Sound Board of Education.

Mediation

The number of negotiating situations increased from 132 in 1980-81 to 168 in 1981-82. Almost three quarters of the negotiations were concluded without third party involvement. The number of pre-fact finding appointments increased in 1981-82, however. The use of pre-fact finding mediation has been encouraged by the Commission because experience has demonstrated that the number of issues at the bargaining table can be significantly reduced before proceeding to fact finding. In several cases agreements have been reached as a direct result of pre-fact finding mediation.

Fact Finding

While the number of negotiating situations increased by 36 in 1981-82 the number of fact finding appointments increased by only 1. There were 50 appointments in 1981-82 as opposed to 49 in 1980-81. The Commission's overall objective has been to reduce the number of fact finding appointments and to improve the fact finding process by encouraging its third parties to make recommendations on terms of settlement and to justify the recommendations by providing rationale supported by data which is supplied to them by the Commission's Research Services staff. During 1981-82 the Commission continued to achieve its objective in this regard.

Monitoring

Data are presented in this report to emphasize the scope of the monitoring function carried out by the Field Services Officers of the Commission (pages 13-17). This function has been refined and upgraded in an effort to get more relevant data to the Commission prior to the appointment of third parties, to maintain an awareness of the ERC with teachers, trustees and administrators across the province, and to maintain an awareness by the ERC of the emerging issues and personalities in local areas. The fact that the Field Services Officers have been with the Commission since it was established in 1975, has allowed each of them to establish an extensive network of contacts in local teacher, trustee, and administrative units across the province.

Determination

Due to a variety of factors including the nature of Bill 100, the Commission has rarely upheld bad faith bargaining charges filed by one of the parties. In 1981-82, however, the Commission upheld a bad faith bargaining charge filed by teachers against a Board under Section 60(1)(f) of the School Boards and Teachers Collective Negotiations Act. In making this determination, the Commission made reference to Section 8 of this Act, which "may be unique in labour relations statutes". A partial text of this determination can be found on pages 38 to 40 of this report.

Professional Development (Third Parties)

One of the legislated duties of the Commission is "to select and where necessary train persons who may act as mediators, fact finders, arbitrators or selectors". During the reporting year the Commission decided to explore methods by which visual media could be used to train its third parties. A script was developed and a 55 minute video cassette entitled "Apples Won't Get It Any More" was produced. This is a dramatization of a mediation situation from the time the mediator is assigned to the completion of the final report. Specific attention is given to the unique aspects and complex dynamics which are present in Teacher-Board bargaining in the education sector of Ontario.

The Commission plans to convert this video cassette to film for wider distribution in the future.

A workshop for fact finders was conducted in June of 1982 dealing with such topics as use of data, school finance and report writing. Approximately 40 new and experienced fact finders participated.

Also in June, a mediation workshop provided theoretical and experiential learning for 45 mediators working with the Education Relations Commission. A comprehensive simulation was designed to provide prospective mediators with a thorough understanding of the major stages of the negotiation process and to provide experienced mediators with an opportunity to analyse appropriate mediation intervention with respect to finding the range of settlement and integrating the various forces at play to achieve a settlement. A unique component of this workshop was a combination of behavioural science theory with traditional mediation strategies to provide an in-depth integration of the learnings which can be immediately applied in mediation sessions.

Staff Development

In the fall of 1980 a system of performance review for all professional, secretarial and clerical staff was instituted in order to facilitate better communication among personnel and to improve the performance of the Commission staff. During 1981-82 this program was extended to include a statement of specific objectives from each of the professional staff. In consultation with the Chairman, the Chief Executive Officer developed a document which identified specific objectives in connection with staff and facilities, the collective bargaining process and the field, and the Commission and third parties. These objectives were shared with the professional staff and the results were reviewed at various times throughout the year.

During the period covered by the 1981-82 Annual Report Mr. Rodger Allan retired from his duties as Chief Executive Officer of the Commission. Mr. Allan served with distinction from November 1, 1978 until his retirement on October 31, 1981. Drawing on a background in education that includes experience as teacher, principal and chief executive officer in Kirkland Lake, Sudbury and Lincoln County, Mr. Allan provided excellent leadership to the Commission and its staff during his term of office as Chief Executive Officer. Immediately following his retirement Mr. Allan was appointed as a one-man commission by the Minister of Education, the Honourable Bette Stephenson M.D., to investigate the problems of declining enrolment in secondary schools in Northern Ontario. The Commission sincerely appreciates the work of Mr. Allan and wishes him every success in retirement.

I TEACHER/SCHOOL BOARD BARGAINING IN ONTARIO – A BRIEF HISTORY

On July 18, 1975, legislation granting Ontario teachers the right to bargain collectively and the right-to-strike was enacted in Ontario. Prior to the passage of legislation, which would become known as Bill 100, the Ontario government had proposed legislation which included compulsory arbitration rather than the right-to-strike. In response to the proposed statute (Bill 275), both teacher and trustee organizations, albeit for different reasons, lobbied the Government to include the right-to-strike in the legislation. The right-to-strike became a priority for the teachers because they viewed compulsory arbitration as an ineffective form of dispute resolution. The trustees viewed compulsory arbitration as both an imposition on, and an erosion of, local board autonomy and, therefore, in conflict with the principle of representative government.

Moreover, those who drafted Bill 100 were convinced by events in the education sector as well as other jurisdictions that strike-prohibiting legislation is not always effective. In fact, it was felt that it could have the opposite effect. There was – and is – a feeling by many labour relations experts that legislation prohibiting strikes may expand or magnify employer-employee confrontation. The primary reason for proposing Bill 100 was to introduce to the province some stability and order in teacher/board bargaining, and against this background the right-to-strike was included in the legislation.

The need for legislation regarding teacher-board negotiations was obvious in the early 70's. Teachers were demanding the right to collectively bargain such issues as working conditions, grievance procedures, and financial matters. Some trustees viewed the collective bargaining process as an infringement of management rights. The net result, in the absence of legislation, was that bargaining took place in a vacuum and that relationships between trustees and teachers were deteriorating both on an individual and organizational basis.

The School Boards and Teachers Collective Negotiations Act, 1975, brought order to this confusion by providing ground rules for collective bargaining. Although the most publicized feature of the Act was the right-to-strike, realistic alternatives such as **voluntary** arbitration or final offer selection were provided at each step in the bargaining process. Events leading to a legal strike or lock-out under the Act were regulated. For example, a strike or lock-out under the Act is not legal until:

- a) A fact finder has met with the parties and his report has been made public; and
- b) A 30-day cooling-off period takes place after the fact finder's report is submitted to the parties; and
- c) The teachers have voted – by secret ballot in a supervised vote – on the last offer of the school board; and

- d) The teachers have voted — by secret ballot in a supervised vote — to take strike action.

Other features of the Act were also significant. Negotiations take place at the board level between the local teachers' federation(s) and the school board. There are separate negotiations in the elementary and secondary panels of each board. The scope of negotiations is open, i.e., all matters are negotiable. Each collective agreement is deemed to contain a procedure for binding settlement of disputes arising out of administration of the agreement if one has not been negotiated locally, and a strike or a lock-out is illegal during the term of the collective agreement.

Finally, the Act provided for a commission of five people — The Education Relations Commission — to monitor and assist all local negotiations between teachers and school boards and to administer the Act. The Commission was given seven specific functions under section 60 of the Act.

1. Monitoring all negotiations;
2. Collecting and providing data to all parties in collective negotiations;
3. Assisting the parties in their collective negotiations;
4. Training third party neutrals;
5. Adjudicating bad faith bargaining charges;
6. Supervising last-offer, strike and ratification votes;
7. Advising the Lieutenant Governor in Council concerning jeopardy to students' courses of study in the event of strike and/or lock-out.

Four years after the passage of Bill 100, the Minister of Education announced in the Legislature the establishment of a Commission to review the collective negotiations process between teachers and school boards. This Commission — referred to as the Matthews Commission — chaired by Dr. B.C. Matthews, then President of the University of Waterloo, submitted its report to the Minister of Education, in June of 1980. Based on the experience during the first five years of Bill 100, the Matthews Commission proposed a small but nevertheless significant set of recommendations to change the Act, none of which, as of August 1982, has been implemented.

Redundant sections of the Act were removed in 1981 during a review of legislation by the Provincial Government. As well, the name of the Act was changed to the *School Boards and Teachers Collective Negotiations Act, Revised Statutes of Ontario, 1980, Chapter 464.*

II THE COMMISSION – MEMBERS AND ORGANIZATION STRUCTURE

The Education Relations Commission is composed of five members appointed by the Lieutenant Governor in Council. The term of appointment may range from one to three years and each member of the Commission is eligible for reappointment upon the expiration of the term. Dr. Bryan Downie was appointed Chairman of the Commission on November 1, 1979 and Brian Bellmore was appointed Vice Chairman on December 19, 1979. Gail Brent was appointed a Commissioner in January of 1980, while John Ronson and Gabrielle Lavesseur have served on the Commission since 1975. A biographical sketch of each of the Commissioners is contained on pages 8 and 9.

The Commission has a permanent staff of 16 individuals. In order to oversee bargaining in the more than 230 sets of negotiations which fall under its jurisdiction, the Commission must rely on external human resources. Therefore, in addition to its permanent staff, the Commission utilizes a cadre of more than seventy individuals who are appointed on a contractual basis as third party neutrals. This arrangement has allowed the Commission to attract and continue to appoint some of the most able third parties in the province.

All appointments and all major decisions and determinations are made by the Commission per se. The day-to-day operations of the Commission, however, are managed by a Chief Executive Officer. The operations of the ERC are divided into two major functions – Field Services and Research Services. (An organization chart is provided on page 11.) Briefly, Field Services monitors negotiation activity at the local level, while Research Services provides data to all parties in negotiations.

The small size and the vast experience of its permanent staff, combined with the high calibre of its part-time people, has allowed the Commission to quickly and effectively respond to the needs of the parties and the public.

MEMBERS OF THE COMMISSION



Chairman —

BRYAN M. DOWNIE, B.A. (Concordia, Minnesota), M.B.A. (University of Chicago), Ph.D. (University of Chicago).

Dr. Downie, (Professor, Industrial Relations and Public Policy, Queen's University) has served as a fact finder, mediator, and interest arbitrator. He has published extensively in the area of labour relations and his book, *Collective Bargaining and Conflict Resolution in Education* examines the activities and policies of the Education Relations Commission during the formative years. He is currently Canadian Director and a Board member of the Society of Professionals in Dispute Resolution, an association of third party neutrals based in Washington, D.C.



Vice-Chairman —

BRIAN P. BELLMORE, B.Sc. (University of Toronto), LL.B. (Osgoode Hall), LL.M. (Harvard).

Mr. Bellmore is a member of a Toronto law firm engaged in the practice of labour relations, administrative law and civil litigation fields. He is a part-time member of the Faculty of Osgoode Hall Law School of York University and is a special lecturer in contract law.



Commissioner —

GAIL BRENT, B.A. (University of Toronto), LL.B. (Queen's).

Mrs. Brent is an approved arbitrator of the Labour Management Arbitration Commission and the Ontario Police Arbitration Commission. She is a part-time Vice-Chairman of both the Ontario Labour Relations Board and the Grievance Settlement Board, as well as a part-time board member and adjudicator of the Public Service Staff Relations Board.



Commissioner —
GABRIELLE LEVASSEUR, B.A.
 (University of Ottawa).

Miss Levasseur is a former teacher with over twenty years of experience in Ontario classrooms. For seventeen years she was a member of L'Association des enseignants franco-ontariens which also placed her on the Board of Governors of the Ontario Teachers' Federation. In recognition of her work with these organizations, she was awarded with a life membership to AEFO and was made a Fellow of the Ontario Teachers' Federation. Miss Levasseur has been a Commissioner since 1975.



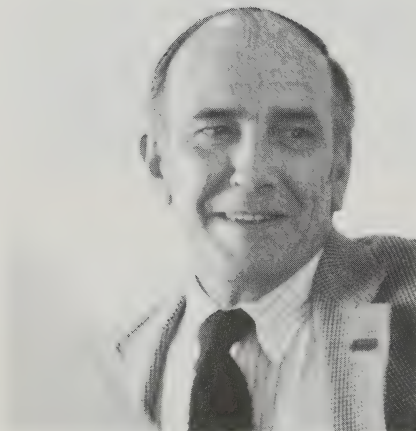
Commissioner —
JOHN C. RONSON, B.Com. (McGill),
M.B.A. (Harvard).

Mr. Ronson is Organization Development Manager for the Steel Company of Canada and President of the Canadian Foundation for Economic Education. He has been a Commissioner since 1975. He is a former Chairman of the Sheridan College Board of Governors, a past Chairman of the Burlington Board of Education and later a member of the Halton County Board of Education. In 1970, Mr. Ronson was Chairman of the Ontario School Trustees' Council.

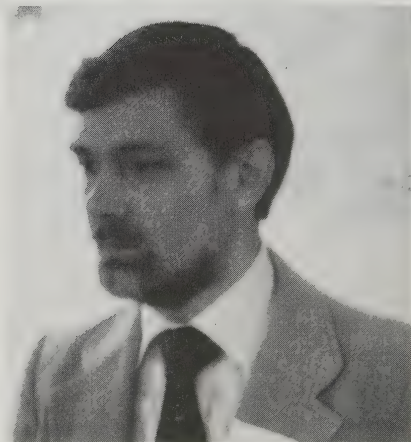
SENIOR STAFF OF
THE COMMISSION



ROBERT H. FIELD
Chief Executive Officer

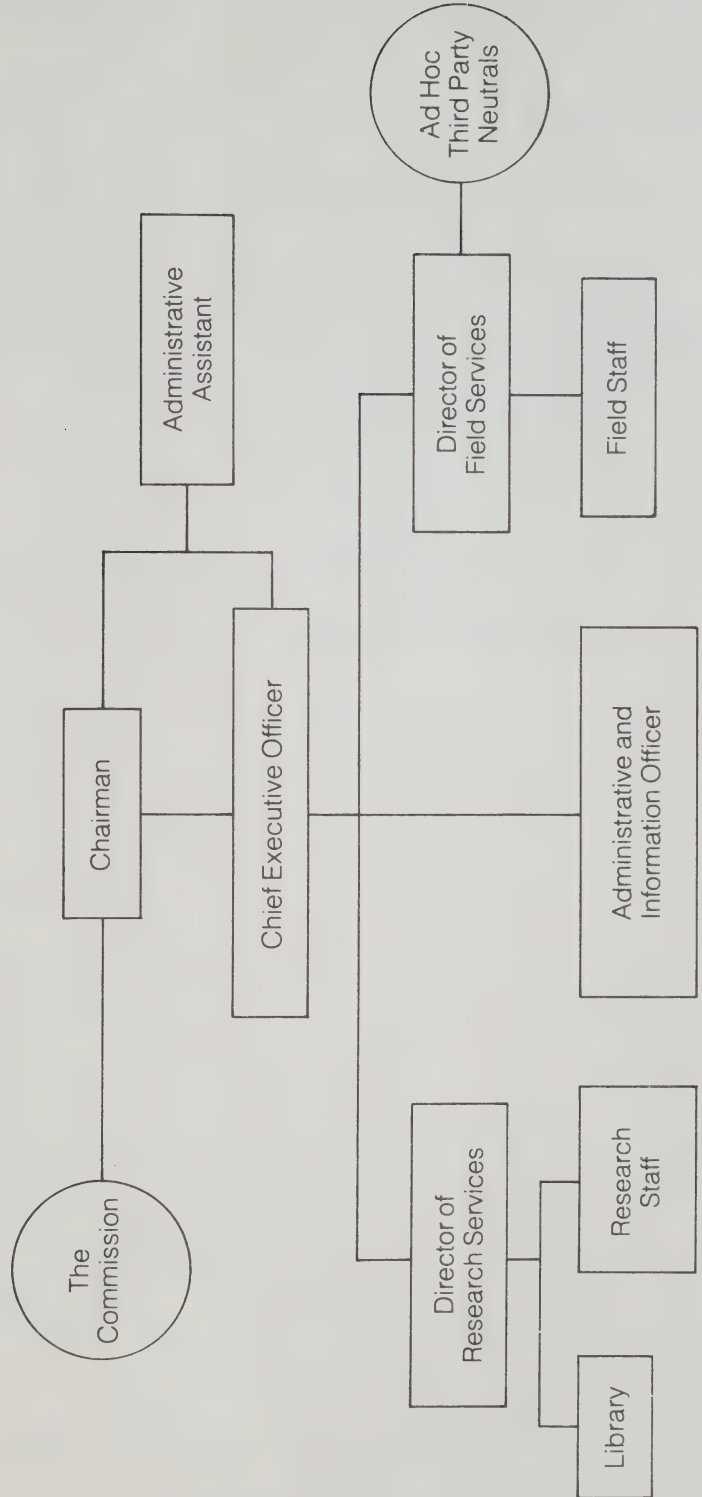


J.A. (SAM) McKEOWN
Director of Field Services



EDWARD M. AIM
Director of Research Services

Organization Chart: The Education Relations Commission



III STAFF ACTIVITIES

1. Field Services

(a) Liaison Activities

The Commission maintains its awareness of negotiations between teachers and school boards through its Field Services staff. Each member of Field Services is responsible for monitoring the negotiations in a specific region of the Province. This regular contact, by both phone (see Table 1) and on-site visits, enables the individual Field Services Officer to gain an understanding of emerging issues in collective bargaining and to become thoroughly familiar with the parties and important developments at the local level. In turn, the parties become better acquainted with the Commission's representatives and more knowledgeable about the Act and the Commission's policies, procedures and resources. Through this exchange, progress reports are gathered and procedures under the Act are clarified. In addition, Field Services staff are responsible for ensuring that statutory requirements are fulfilled and that last offer and strike votes are properly conducted and supervised.

Maintaining an intimate awareness of negotiations between branch affiliates* and school board is particularly advantageous when appointments of third party neutrals by the Commission become necessary. In making judgments regarding the appropriateness or timing of an appointment and/or the individual to be named as mediator or fact finder in any given area, the Commission has been able to rely on the first-hand information and advice of its Field Services staff.

In the 1980-81 year, Field Services introduced a greater degree of *planning* into the appointment process, and this has been continued and refined during the reporting year. Field Services Staff now formally analyze all upcoming sets of negotiations early in the negotiation year. The analyses include an assessment of the probable degree of difficulty of each situation and the identification of possible troublesome issues and potential barriers or stumbling blocks to settlement. Their analyses include, as well, recommendations on the style, timing and type of third party assistance appropriate to each situation. This material is summarized and evaluated against past historical developments in the particular teacher/school board relationship. Through this system, more effective and economical appointments have emerged. Moreover, more informed decisions concerning third party appointments have resulted.

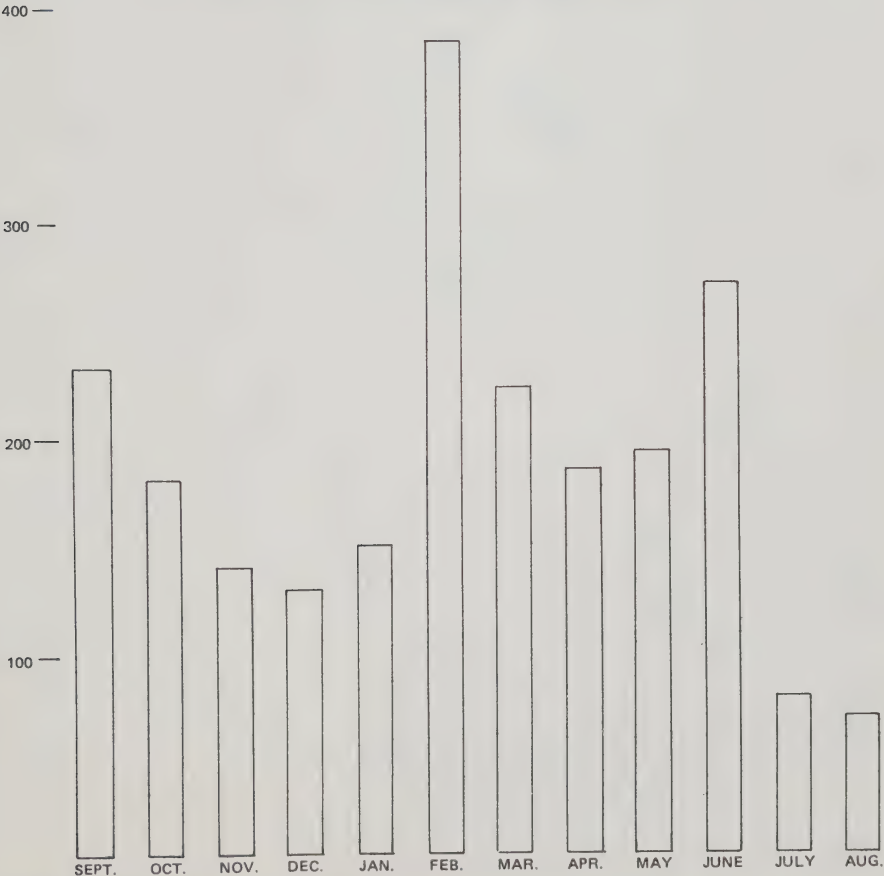
Field Services staff members no longer undertake mediation assignments. As recently as two years ago, staff members were assigned

*A branch affiliate is composed of all the teachers employed by a board who are members of one of the Provincial teachers' federations or associations. A branch affiliate is comparable to a local union.

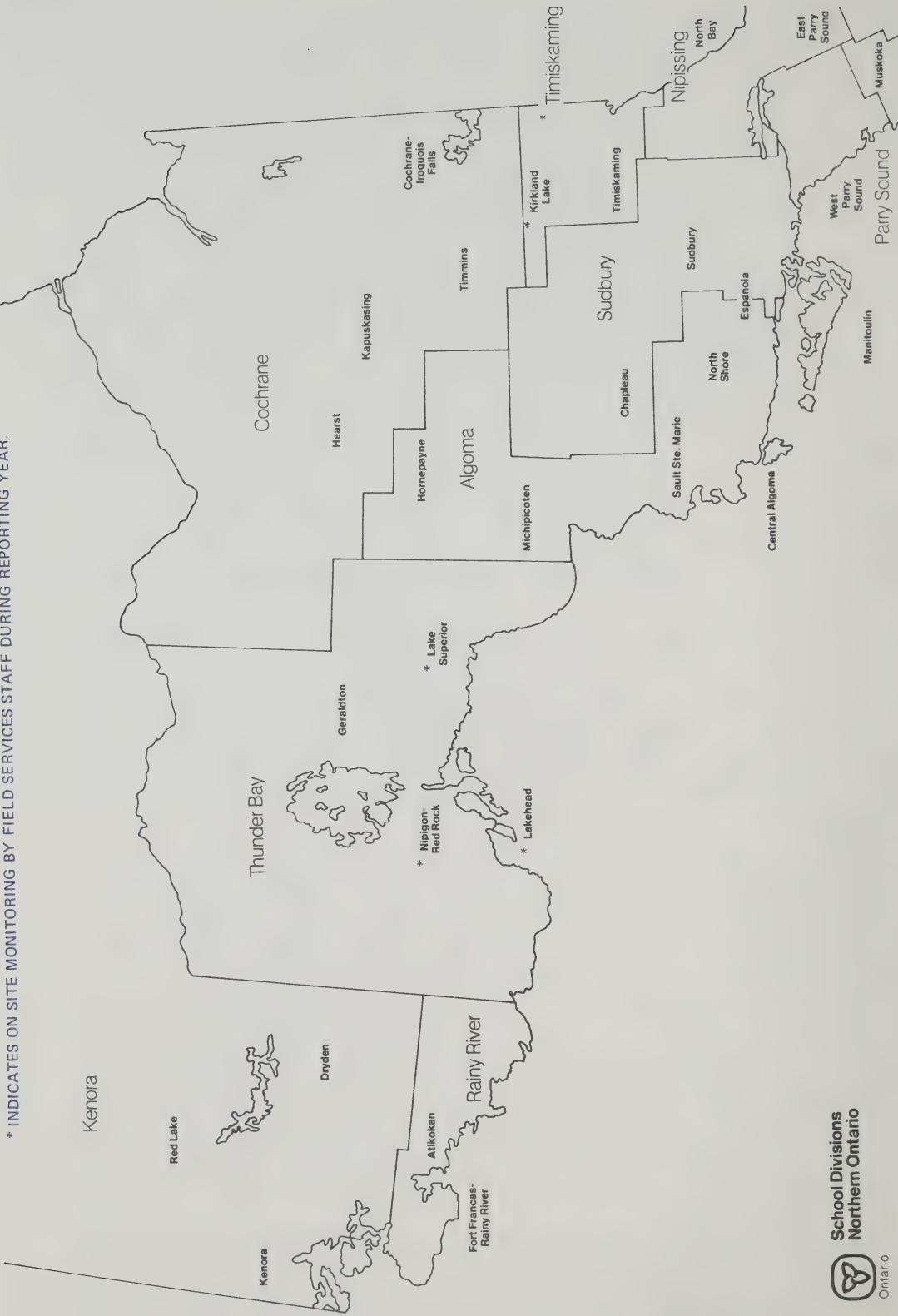
mediation tasks for the Commission when such appointments seemed suitable and desirable. A decision was made by the Commission in 1980 to discontinue this practice. The Commission felt, and continues to feel, that direct involvement in negotiations by its staff would jeopardize the monitoring function of Field Services and the neutrality of the Commission. As a consequence, all formal mediation is now undertaken by *ad hoc* third party neutrals. The Commission has developed a highly qualified, competent and totally professional group of third party neutrals upon which it can draw.

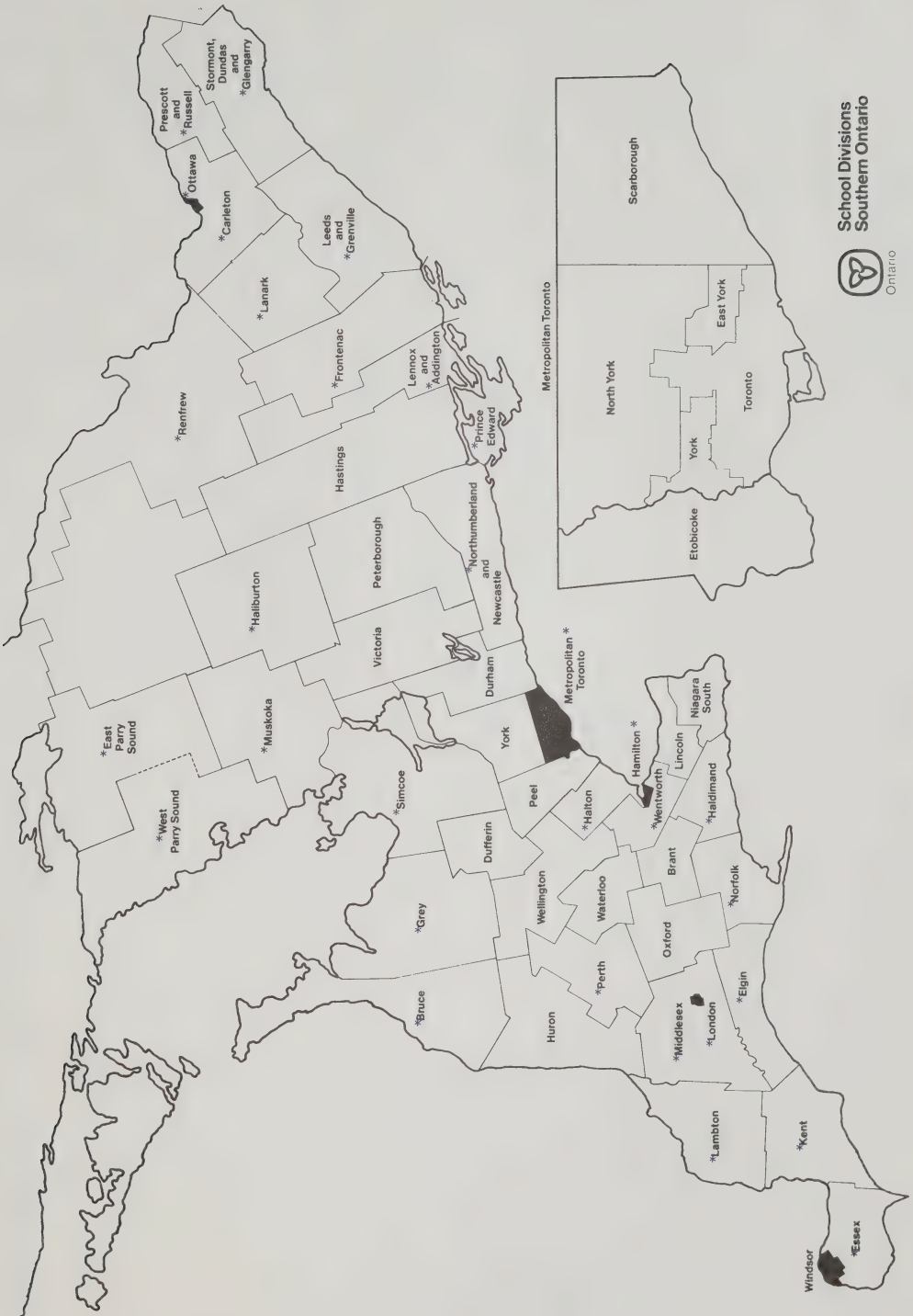
In addition to the monitoring and appointment process, Field Services staff members are intensively involved in both the planning and production of all of the Commission's workshops and *Technical Assistance* projects (see section (b)(i) below). They are responsible, as well, for the selection, training, evaluation, and professional development of the Commission's neutrals.

**Table 1 TELEPHONE CALLS IN-COMING AND OUT-GOING
FIELD SERVICE MONITORING**



* INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR.

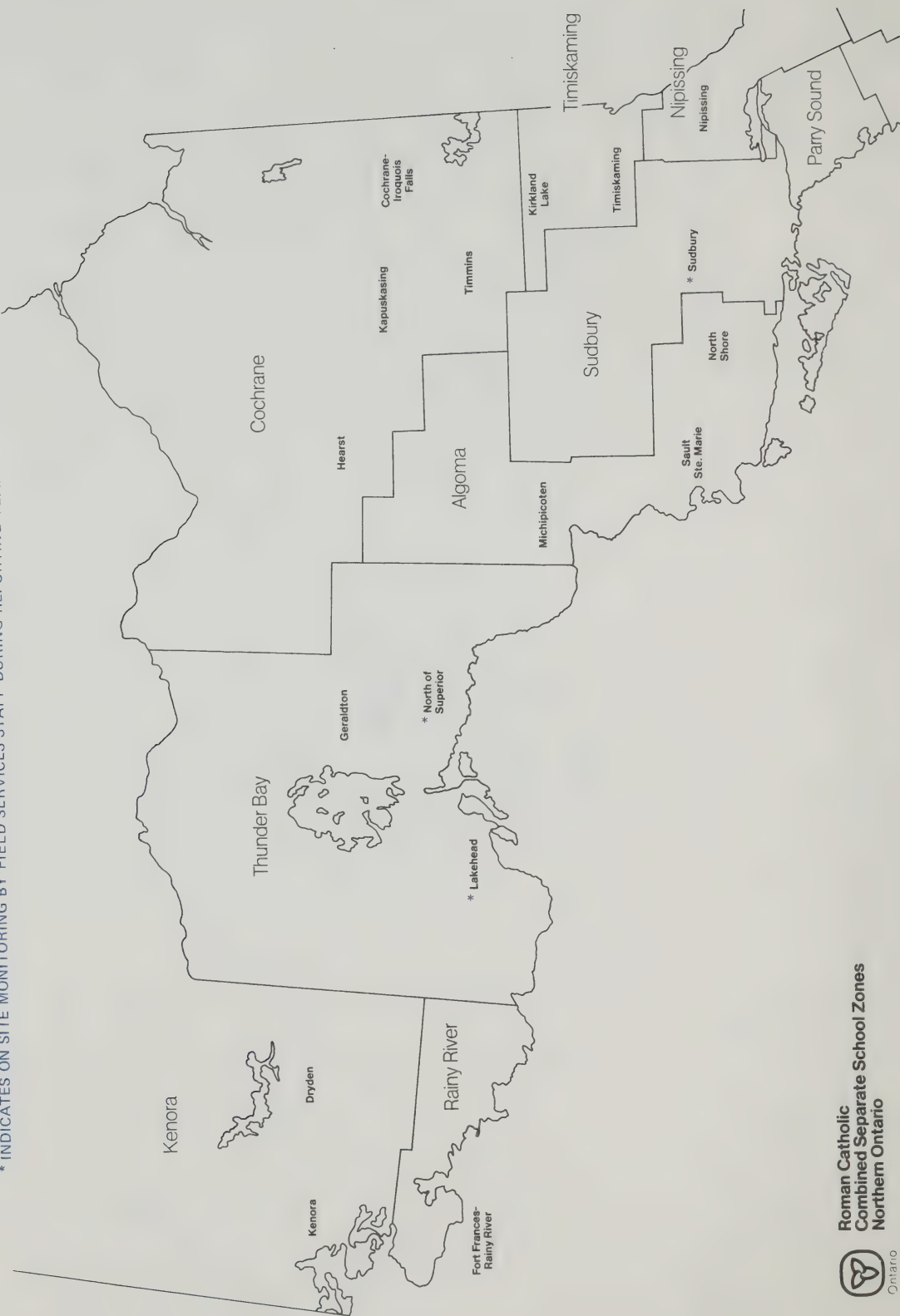




School Divisions
Southern Ontario



Ontario





(b) Preventive Mediation Programs

The Commission officially added a preventive mediation program during the 1980-81 year to the services which it offers the parties. Administered by the Field Services unit, and referred to as ***Technical Assistance***, the program is concerned with assisting the parties to develop an improved relationship and to jointly resolve problems that arise during the life of the collective agreement. Its focus is on the search for new processes (within the adversary system) and attitudes, so that the two parties can interact more effectively and with somewhat less friction. In contrast to conventional mediation, ***Technical Assistance*** is normally conducted outside negotiations.

A formal Grievance Mediation program is also offered by the Commission.

(i) Technical Assistance

Field Services staff members were involved with three jurisdictions in activities designed to improve communications and relationships between the parties.

Following preliminary meetings between the Field Services personnel and representatives of the Board, Teachers and Administration in the Essex Roman Catholic Separate School Board, the Commission appointed Mr. Eric Runacres to lead the Technical Assistance program in that jurisdiction. Mr. Runacres, formerly Director of Education for the Hastings County Board of Education, is well known for his skills as a facilitator. The success of the program is illustrated by the two-year agreement which the teachers and trustees of the Essex Roman Catholic Separate School Board signed in June.

The program in both Lincoln and Lennox and Addington Elementary is on-going. However, a unique feature of the program in Lincoln is that it involves only trustees and administrators, in an attempt to establish system goals and functional relationships.

It should be stressed that Technical Assistance is offered only after ***both*** parties in a jurisdiction request ERC involvement.

(ii) Grievance Mediation

This program is designed to assist the parties in resolving differences between them which arise from the interpretation, application, administration or alleged contravention of the collective agreement. The use of this procedure does not preclude the parties from proceeding to arbitration if the matter is not resolved through mediation.

One purpose of grievance arbitration is to alleviate the build up of negative attitudes which develop within a system because of unresolved grievances. Such grievances often become issues in negotiations. Moreover, grievance mediation is a method of solving disputes as close to the source and as quickly as possible. Lastly, grievance mediation is much less expensive than arbitration.

Because it is a new service, there are two matters which must be further addressed by Commission staff. First, the parties must be made aware of the existence of the service and second, they must become aware of the types of issues most amenable to resolution in grievance mediation. To this end, the Chief Executive Officer, R.H. Field, has attended meetings of the Regional Educational Councils throughout Ontario in an effort to explain both the Technical Assistance and Grievance Mediation Programs to the Directors of Education in the province.

(c) Selection and Training of Third Parties

Section 60(1)(e) of the Act directs the Commission "to select and where necessary, to train persons who may act as mediators, fact finders, arbitrators, and selectors."

(i) Selection

The Commission selects persons from a list of qualified fact finders and mediators to assist in collective negotiations as required. Its roster includes men and women from a variety of occupations including labour/management arbitrators, labour lawyers, academics and former educational administrators and teachers. Each year, the Commission continues to recruit a number of third parties who are bilingual.

Today, individuals who are utilized by the Commission not only must bring strong qualifications to the ERC but also must participate in the Commission's training programs. As well, the Commission now evaluates its third parties and only those individuals whose performance is superior continue to be appointed. The Commission continues to seek individuals whose background, experience and understanding of collective bargaining in education render them eligible to provide the kind of third party assistance required by the ERC.

(ii) Training

During the reporting year, two training sessions were held for third party neutrals. As in other years, one session was held for fact finders and one for mediators. The Commission continued to recruit new individuals with high qualifications and from a variety of backgrounds: ten were academics whose training is in industrial relations, 20 were lawyers specializing in labour law, and three were former school trustees or administrators.

In the workshop on *conventional* mediation, various styles, techniques and strategies of mediation were explored during a three-day period. This seminar was an extension of a simulation which was utilized two-years ago to highlight the dynamics of, and behaviour in, the collective bargaining process. The Commission is attempting, through both recruitment and training, to add to its contingent a group of "intensive" mediators. A U.S. study has confirmed what many labour relations experts believe, viz., "intensive" or "active"

mediators are likely to be more effective in facilitating agreements between the parties than mediators who act with low intensity*. The mediation workshop this year, therefore, focused on strategies for intensive mediation.

A workshop was also held for new fact finders to acquaint them with the Act, the financial aspects of education in Ontario, the teacher and trustee organizations, and issues often involved in Ontario teacher/board bargaining.

2. Research Services

Research Services gather and provide information to assist all parties in negotiations through numerous publications on salaries and other negotiation issues, and by responding to requests for data (see Tables 2 and 3). They also undertake a broad variety of research tasks for the Commission.

(a) Information

The basic resource for the Commission's information base is the collective agreement. Approximately 200 agreements are analyzed each year by Research Services' staff. (The number of collective agreements *negotiated* annually varies with the number of multi-year agreements.) Information related to salaries, benefits and working conditions is extracted from these agreements and placed in a computerized data bank. As in previous years, Research Services processed more than 1,000 requests for information during this reporting period.

In co-operation with the Ministry of Education, the Commission continued to receive information regarding school board expenditures for a variety of allowances and benefits which are provided to teaching staff, as well as enrolment and staffing data. These are available to the parties upon request.

The Commission's reference library contains a copy of all collective agreements, public fact finding reports, arbitration awards, final offer selection awards, and ERC determinations. The library may be used by interested individuals.

*"Mediator intensity" refers to a mediator's level of immersion or involvement in the process of dispute resolution. A mediator who acts with low intensity usually focuses on identifying the issues in dispute, probes the problems which lie behind the issues and generally assists the parties to improve their lines of communication. At higher levels, a mediator more actively assists the parties in setting priorities, "packages" issues for discussion and trade-off, and even offers alternative solutions to the dispute. At the highest level of intensity, it is not uncommon for a mediator to use persuasion and other forms of pressure to encourage settlement. See Paul F. Gerhart and John E. Drotning, "A Six State Study of Impasse Procedures in The Public Sector: Final Report". Unpublished study in connection with U.S. Department of Labor Contract No. J-9P-7-0149.

Activities of the previous year designed to establish a base of non-teacher economic and labour data were furthered through contacting both neutral and organizations with advocacy positions to learn of their data resources and availability. Progress in this area remains slow; particularly in regard to data concerning "professionals". Nevertheless, attempts to expand the Commission's materials in this regard will continue.

Advancements were also achieved in the in-house data processing capabilities initiated during 1980-81 when a mini-computer was purchased. Although the usual frustrations have been experienced, the initial developmental work is nearing completion and testing of the operational capabilities is being planned. The word processing component of the system is being put to productive use in such areas as Commission appointments, text editing of publications and the maintenance of mailing lists.

Beyond the data pertaining to collective agreements, the equipment is being utilized to establish an in-house system of the negotiation process to assist with record keeping, reporting and appointment

Table 2 Number of Requests for Information by Month and Party, 1981-82

	Local Teacher	Local Board	ERC Appointee	Provincial Teacher	Provincial Trustee	Media	Other	Total
1981								
Sept.	2	7	11	6	1	—	7	34
Oct.	9	12	22	9	—	—	5	57
Nov.	19	10	20	8	3	—	12	72
Dec.	6	9	6	5	—	1	3	30
1982								
Jan.	9	12	5	5	2	—	18	51
Feb.	14	10	7	6	1	1	17	56
Mar.	6	14	5	5	4	3	14	51
April	7	21	2	8	2	—	5	45
May	4	11	1	12	—	—	2	30
June	6	13	11	13	1	—	16	54
July	1	8	5	3	2	3	6	28
Aug. 1		7	7	1	1	5	13	35
Total	84	134	102	81	17	13	118	543

Table 3 **Number of Requests for Publications, Month and Party, 1981-82**

	Local Teacher	Local Board	ERC Appointee	Provincial Teacher	Provincial Trustee	Media	Other	Total
1981								
Sept.	12	14	1	5	1	—	28	61
Oct.	11	5	1	4	—	—	18	39
Nov.	21	2	2	7	1	—	18	51
Dec.	10	5	—	1	1	—	11	28
1982								
Jan.	23	13	—	5	3	—	19	63
Feb.	12	4	—	7	—	1	18	42
Mar.	15	11	—	2	2	—	16	46
April	29	21	—	10	—	—	17	77
May	12	8	—	4	—	—	9	33
June	18	19	1	2	—	—	13	53
July	2	4	—	2	1	1	6	16
Aug.	2	4	—	3	3	—	8	20
Total	167	110	5	52	12	2	181	529

(b) Research

Staff undertook several studies which focused either on general labour relations matters relevant to teacher/school board bargaining in Ontario or on items specifically related to the negotiations process outlined by the Act.

Work continued on efforts designed to assess the nature of the bargaining process in regard to the length of negotiations, number of third parties involved and stages of the process engaged. An overview of these results is presented in the initial part of this Report.

As mediation is a widely used form of third party assistance provided under the Act, an examination of various tactics and strategies enabling the mediator to better assist the parties in moving towards a settlement was commenced. Upon completion, the published results will be employed as a training resource to third parties as well as an information reference for the parties to bargaining.

Several research projects which the Commission has contracted with independent researchers are expected to be received during the next year. These include a study in which comparisons between university-bound students from the Sudbury secondary panel in strike and non-strike years will be undertaken and an examination of a cross-section of negotiating situations in an attempt to ascertain the key factors associated with variations in relationships.

A variety of publications dealing with insured employee benefits, pupil-teacher ratios, retirement gratuities, leave provisions, compensation statistics and disciplinary procedures were issued by the Commission during the 1981-82 year and made available to all parties (see Appendix A).

Occasional meetings were held throughout the reporting period with the parties to negotiations and third party appointees. The purposes of such sessions were to review current activities and seek suggestions for improvements and new initiatives. As a result of these sessions, several alterations were planned for the following year concerning chiefly, the nature of material published.

IV NEGOTIATIONS 1981-82

1. The Parties

The parties to negotiations are the 2,200 trustees and the 105,000 teachers who represent and work in the approximately 200 school boards in the province. In general terms, there are two kinds of school boards. The Boards of Education (76) are divided into elementary and secondary panels. The Roman Catholic Separate School Boards (48) provide Catholic education in the province. In many cases, these Boards are geographically different from each other. A second difference is illustrated by the fact that the R.C.S.S. Boards do not have a secondary panel. Provincial funding for the R.C.S.S. Boards is provided to grade 10 only. Such Boards offering grades 11, 12 and 13 are actually operating private schools.

Both the trustees and the teachers are organized in a grouping of organizations under a parent body. For the teachers, the parent body is the Ontario Teachers' Federation (OTF). This organization is made up of representatives of:

1. The Federation of Women Teachers' Associations of Ontario (FWTAO);
2. The Ontario Public School Men Teachers' Federation (OPSMTF);*
3. The Ontario Secondary School Teachers' Federation (OSSTF);
4. The Ontario English Catholic Teachers' Association (OECTA);
5. L'Association des enseignants franco-ontariens (AEFO).

Bargaining rights reside with the branch affiliates of the above bodies.

The trustee parent organization is the Ontario School Trustees' Council (OSTC) which is composed of representatives from:

1. The Association of Large School Boards of Ontario (ALSBO);
2. The Ontario Public School Trustees' Association (OPSTA);
3. The Ontario Separate School Trustees' Association (OSSTA);
4. L'Association française des conseils scolaires de l'Ontario (AFCSO);

*Changed to Ontario Public School Teachers' Federation at annual conference in August. (OPSTF)

5. The Northern Ontario Public and Secondary School Trustees' Association (NOPSSTA).

During 1981-82, approximately 69,980 Ontario teachers negotiated the terms and conditions of their employment. The number of school boards and the branch affiliates, by type, and the number of teachers employed by those boards are summarized in Table 4.

Table 4 School Boards, Branch Affiliates, and Teachers in Ontario, 1981-82

Board Classification	Number of Boards	Number of Branch Affiliates				
		FWTAO	OPSMTF	OECTA	AEFO	OSSTF
Boards of Education	76*	76	76	—	25	76
Metro. Toronto School Board*	1	1	1	—	—	—
County and District Combined Roman Catholic Separate School Boards	48	—	—	47	40	—
Other Public School Boards	42	4	7	—	—	—
Other Separate School Boards	13	1	1	5	4	—
Secondary School Boards	1	—	—	—	—	1
Boards on Crown Lands, Hospital and Hydro Centres and the Provincial Schools Authority	23	8	8	—	4	2
Total	204	90	93	52	73	79
Number of Teachers	105,265	29,788	14,610	20,105	5,359	35,403

* The Metropolitan Toronto School Board, which operates schools for the trainable retarded, does not operate elementary and secondary schools as such; however, its teachers are members of the elementary school branch affiliates, FWTAO and OPSMTF.

2. Renewals under the Act

It should be noted that the number of negotiations during any given year will vary because of the existence of multi-year agreements. That is, not every agreement comes up for renewal every year. The 204 school boards and 387 branch affiliates, referred to in Table 4, conducted 168 sets of negotiations during 1981-82, as indicated in Table 5.

Table 5 Status of Negotiations, 1981-82

Board Classification	Not Subject to Negotiation*	Subject to Negotiation
Boards of Education — Elementary	26	50
Boards of Education — Secondary	24	51
County and District Combined Roman Catholic Separate School Boards	11	37
Other School Boards	4	30
Total	65	168**

* Concluded a multi-year settlement during a previous year.

** In addition to these situations, one (1) Secondary (Leeds and Grenville) which had not settled during 1980-81, continued negotiations into the 1981-82 period and concluded a multi-year settlement covering the 1981-82 agreement year.

3. Duration of Agreements

Table 6 provides a breakdown of the duration and termination dates of settlements reached *during* 1981-82.

**Table 6 Duration and Termination Dates of Settlements
Concluded in 1981-82**

Board Classification	Not Settled	1 Year Aug. 31/82	2 Years Aug. 31/83	3 Years Aug. 31/84
Boards of Education — Elementary	—	35	15	—
Boards of Education — Secondary	1*	33	16	1
County and District Combined Roman Catholic Separate School Boards	—	24	12	1
Other School Boards	—	25	5	—
Total	1	117	48	2

* Oxford County Secondary.

One of the significant developments over the past three years has been the number of *multi-year* agreements negotiated by the parties. Table 7 presents the number of multi-year agreements reached during each year since the inception of the Act. A clear trend toward multi-year agreements began in the 1978-79 reporting year and has continued in 1981-82. The importance of multi-year agreements cannot be overemphasized. They introduce a measure of stability in teacher/school board relationships and bargaining, and generally reduce the number of third party appointments by the ERC.

Table 7 Term of Agreements, 1975-76 to 1981-82

Term of Agreement	1975-76		1976-77		1977-78		1978-79		1979-80		1980-81		1981-82	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Elementary:	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0
Term: 8 Months	8	10.5	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0
1 Year	56	73.7	63	82.9	68	89.5	57	75.0	30	39.5	18	23.7	35	46.1
1st Yr. of Multi-Yr.	8	10.5	1	1.3	6	7.9	13	17.1	33	43.4	25	32.9	15	19.7
20 Months	4	5.3	4	5.3	1	1.3	—	0.0	—	0.0	—	0.0	—	0.0
2nd or 3rd Yr. of Multi-Yr.	—	0.0	8	10.5	1	1.3	6	7.9	13	17.1	33	43.1	26	34.2
Secondary:	76	100.0	76	100.0	76* 100.0		76	100.0	76	100.0	76	100.0	75* 100.0	
Term: 8 Months	5	6.6	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0
1 Year	53	69.7	56	73.7	70	93.3	53	69.7	25	32.9	22	28.9	33	44.0
1st Yr. of Multi-Yr.	10	13.2	3	3.9	1	1.3	22	28.9	29	38.1	23	30.3	17	22.7
20 Months	7	9.2	7	9.2	1	1.3	—	0.0	—	0.0	—	0.0	—	0.0
2nd or 3rd Yr. of Multi-Yr.	1	1.3	10	13.2	3	4.0	1	1.3	22	28.9	31	40.8	25	33.3
R.C.S.S.:	48	100.0	48	100.0	48	100.0	48	100.0	48	100.0	48	100.0	48	100.0
Term: 8 Months	11	22.9	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0
1 Year	27	56.3	38	79.2	41	85.4	38	79.2	17	35.4	12	25.0	23	47.9
1st Yr. of Multi-Yr.	3	6.3	3	4.2	4	8.3	6	12.5	25	52.1	11	22.0	14	29.2
20 Months	6	12.5	5	10.4	1	2.1	—	0.0	—	0.0	—	0.0	—	0.0
2nd or 3rd Yr. of Multi-Yr.	1	2.1	3	6.3	2	4.2	4	8.3	6	12.5	25	52.0	11	22.9
Total:	200	100.0	200	100.0	199	100.0	200	100.0	200	100.0	200	100.0	199	100.0
Term: 8 Months	24	12.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0
1 Year	136	68.0	157	78.5	179	89.9	148	74.0	72	36.0	52	26.5	91	45.8
1st Yr. of Multi-Yr.	21	10.5	6	3.0	11	5.5	41	20.5	87	43.5	59	29.0	46	23.1
20 Months	17	8.5	16	8.0	3	1.5	—	0.0	—	0.0	—	0.0	—	0.0
2nd or 3rd Yr. of Multi-Yr.	2	1.0	21	10.5	6	3.0	11	5.5	41	20.5	89	44.0	52	26.1

*Windsor Secondary did not have a collective agreement in effect during 1977-78.

**Oxford Secondary not settled for 1981-82.

4. Persons Appointed to Assist – Mediators

Another significant and positive change occurred in the 1980-81 round; in this case, the matter concerns third party assistance. Mediators, or "persons to assist" as they are referred to under section 13 of the Act, can be appointed at any time, either at the direction of the Commission or, with Commission concurrence, at the request of one or both parties. While a mediator may help the parties fashion their own solution to the conflict, labour relations experts suggest that, with the passage of time, the parties in public sector negotiations tend to rely on third parties to an excessive degree.

It is important to note that for the second consecutive year almost three-quarters of the negotiations settled without the involvement of a mediator as compared to less than two thirds in the 1979-80 negotiating year. As in the previous year, the 1981-82 ratio was one of the lowest since the passage of the Act.

Table 8 Assignment of Mediators, 1981-82

Board Classification	Situations Negotiating 1981-82	No Mediation	Mediation Only	Mediation Pre Fact Finding Only	Mediation Post Fact Finding Only	Mediation Pre and Post Fact Finding
Boards of Education – Elementary	50	41	3	3	3	—
Boards of Education – Secondary	51	28	10	5	5	3
County and District Combined Roman Catholic Separate School Boards	37	23	2	2	9	1
Other School Boards	30	29	1	—	—	—
Total	168	121	16	10	17	4

The Commission has continued a policy, introduced in 1980-81, which brought about a shift in the *timing* of mediation assistance.

The Matthews Commission suggested that the ERC place some emphasis (albeit with the concurrence of the parties) on mediation assistance *prior* to mandatory fact finding. The feeling is that this would enable the mediator to work with the parties before their positions harden. The ERC concurs with this judgment if local circumstances are appropriate. In this light, the figures in Table 8 are interesting. Of the forty-seven mediation appointments during the 1981-82 round, 55% were made prior to fact finding, contrasted with 40% in the 1980-81 and 27% in 1979-80. Table 9 lists the jurisdictions and outcomes where pre-fact finding mediators were appointed in the 1981-82 round. The Commission has taken steps to ensure that this approach continues in 1982-83 negotiation round.

Table 9 Pre-Fact Finding Mediation, 1981-82

Jurisdiction	Mediator	Outcome
<u>Elementary</u>		
Hamilton	Tom Bastedo	— ordered and clarified items in dispute — eliminated minor items
Lanark	Vic Davis	— Settlement
Lennox & Addington	David Moore	— clarification of the many issues outstanding — both sides aware that there is only one major issue
Prescott Russell	Y. Tarte	— Settlement
Sudbury	P. Little	— Settlement
West Parry Sound	Mac Stockton	— items clarified — prioritized
<u>Secondary</u>		
Central Algoma	Gene Deszca	— Settlement
Grey	Jeff Gandz	— clarification, reduction and prioritization of issues
Haliburton	Eric Runacres	— Settlement
Huron	Jeff Gandz	— clarification, reduction and prioritization of issues
Kapuskasing	Belinda Kirdwood	— Settlement
Kirkland Lake	Vic Davis	— items in dispute clarified and prioritized
Lanark	Mac Stockton	— Settlement
Lennox & Addington	Jim Singleton	— Settlement
Michipicoten	Paul Piché	— Settlement
Middlesex	Mac Stockton	— Settlement prior to meeting with mediator
Northumberland-Newcastle	Bill Marcotte	— clarification of issues for the parties
North York	D. Moore	— Settlement
Peel	Alan Harries	— issues clarified
Renfrew	David Tough	— Settlement
Sudbury	Norman Bernstein	— prioritize items in dispute, settled secondary issues — primary issues clarified
Timiskaming	Bill Marcotte	— Settlement
West Parry Sound	Mac Stockton	— some prioritizing of issues
York Region	David Moore	— Settlement
<u>R.C.S.S.</u>		
Durham	G. O'Neill	— cleared obstacle to further negotiations
Halton	Tom Bastedo	— Settlement
Nipissing	Bill Marcotte	— Settlement
Waterloo	Graeme McKechnie	— prioritize items in dispute — changes to bargaining strategy — open areas of flexibility
Windsor	Ian Hunter	— clarification and reduction of outstanding issues

5. Fact Finding

Fact finding affords an opportunity for the parties to clarify and narrow the differences which exist between them in order to reach a settlement when the collective agreement expires. The process becomes mandatory once August 31 has passed (the contract expiry date in all teacher/school board collective agreements). Further, it is a necessary procedure under the Act before teachers can take strike action or before a school board can initiate a lock-out. The fact finding process also recognizes the public's right to know the substantive and procedural issues of a dispute as well as each party's position prior to any possible interruption to the normal school program.

The Commission may appoint a fact finder at any time during negotiations either upon the request of one or both parties or if the Commission deems that the parties are at an impasse and would benefit from such assistance. The fact finder, a third party neutral, investigates the particular local situation and then files a written report with the Commission. A time limit of thirty days is established in the Act for the fact finder to meet with the parties, examine their written submissions, listen to oral arguments, write the report and submit it to the Commission. The Commission, in turn, immediately delivers the report to the parties.

The report must set out those matters upon which the parties have agreed as well as those upon which they have not agreed. A fact finder may make recommendations regarding any matter which he or she feels is relevant and on any of the items in dispute. The fact finder's recommendations, while not binding upon the parties, often narrow their differences, or are accepted by the parties in whole or in part.

Once the parties receive the report, they have a 15-day period in which to reach a settlement before the report is made public. If an agreement is not negotiated during this time, the report must be made public by the Commission. Should the parties reach settlement at any time during fact finding, the process is automatically terminated.

It is clear from experience in the first six years since the passage of the Act that fact finding has the potential to assist and, in many cases, actually has assisted the parties in reaching negotiated settlements. To date, the Commission and the parties have generally found it to be a useful process which has worked reasonably well. At the same time, there were observations made before the Matthews Commission that not only were negotiations far too long but also that in some cases fact finding had contributed to the delay. There were also submissions that fact finding in some instances was ineffective and perhaps over-utilized by some of the parties.

Under any labour legislation (including Bill 100), there is a very real danger that a process such as fact finding will be ignored or misused by the parties, thereby weakening the philosophical thrust of the Act and undermining its effectiveness. As a consequence, the Commission has encouraged the parties to utilize fact finding only if absolutely necessary. The preference, wherever possible, is to settle prior to the point when, under the Act, the Commission must appoint a fact finder. Second, the Commission has attempted to strengthen the fact finding process by trying to convey to the parties and to its third party neutrals that if a settlement cannot be reached without fact finding, the ensuing process should be one out of which a meaningful fact finder's report will emerge. This report would clearly and concisely address the issues in dispute and, if at all possible, present to the parties at least the broad outlines of a settlement. Finally, during the past year, the Commission has recruited and appointed individuals with extremely high qualifications and experience in labour-management and/or teacher/school board relations; individuals who also have the expertise to write outstanding and effective fact finding reports.

A provincial review of fact finding for the 1981-82 agreement year is shown in Table 10. Virtually all fact finder appointments were made after the expiration of the collective agreement. The number of appointments is almost the same as that of a year ago, but it is less in percentage terms. Of the 168 sets of negotiations during the 1981-82 agreement year, 50 (30%) required fact finding assistance, compared to 49 appointments out of 132 sets of negotiations (37%) in the previous year. This continues the reversal of a trend which began last year. Prior to that, 1975-80, the use of fact finding had increased every year.

Finally, a number of disputes¹ are resolved prior to the writing and/or release of the report to the public. Table 10 reveals that, in 74% of the cases where appointments were made, reports were written and released to the parties. The parties came to a negotiated settlement immediately after receiving the fact finder's report and prior to the report being made public in 22% of the cases.

Table 10 Fact Finder Appointments, Reports Released to Parties and Reports Made Public, 1981-82

Board Classification	Fact Finder Appointments	Reports Released To Parties	Reports Made Public
Boards of Education — Elementary	10	9	6
Boards of Education — Secondary	16*	14	12
County and District Combined Roman Catholic Separate School Boards	18**	12	10
Other School Boards	6***	2	1
Total	50	37	29

* Separate appointments made for the Simcoe County Board of Education and its negotiations with the Branch Affiliates of the Ontario Secondary School Teachers' Federation and L'Association des enseignants franco-ontariens.

** Separate appointments made for the Carleton Roman Catholic Separate School Board and its negotiations with the Branch Affiliates of the Ontario English Catholic Teachers' Association and L'Association des enseignants franco-ontariens.

*** Separate appointments made for the Canadian Forces Base Petawawa Board of Education and its negotiations with the: (1) Branch Affiliates of Federation of Women Teachers' Associations of Ontario and Ontario Public School Men Teachers' Federation; and (2) L'Association des enseignants franco-ontariens.

6. Strikes, Lock-Outs and School Closings

Out of the 168 sets of negotiations referred to in Table 4, only three experienced teacher sanctions. There was a strike by secondary school teachers in West Parry Sound which lasted 51 instructional days. There were two strikes in the Carleton Roman Catholic Separate School Board where, for the first time, teachers who were members of the Ontario English Catholic Teachers' Association bargained separately from teachers who were members of L'Association des enseignants franco-ontariens. The sanction by the OECTA unit lasted 19 instructional days and the sanction by the AEFO unit lasted 11 instructional days.

As well, the strike by Leeds and Grenville secondary school teachers, which arose out of the 1980-81 round of negotiations, ended through a negotiated settlement early in September without the loss of any instructional days on 1981-82.

Details of all four sanctions are provided in Table 11. A complete record of sanctions since the passage of the Act is included in Appendix B.

Table 11 Strikes, Lock-outs and Closing of Schools, September 1, 1981 to August 31, 1982

School Board	Number of Schools	Number of Teachers	Number of Students Affected	Type of Sanction	Duration of Sanction	Final Settlement
Leeds & Grenville Secondary*	7	377	5,999	Full withdrawal of Services (0 instructional days)	Sept. 1-7 Sept. 7/81	Negotiated
West Parry Sound Secondary*	1	81	1,185	Full withdrawal of Services (51 instructional days)	Feb. 8 - Apr. 28/82	Voluntary Binding Arbitration
Carleton RCSS (OECA only)	34	614.5	11,127	Full withdrawal of Services (19 instructional days)	Feb. 22 - Mar. 28/82	Negotiated 1st year, VBA 2nd year
Carleton RCSS (AEFO only)	18	270.2	4,937	Full withdrawal of Services (11 instructional days)	Mar. 4 - Mar. 28/82	Negotiated 1st year, VBA 2nd year

* Initiated during the 1980-81 year and concluded during 1981-82, but prior to the commencement of the school year.

7. Voluntary Binding Arbitration/Final Offer Selection

At any time during negotiations, the parties can mutually agree to choose one of two options of third party resolution: voluntary binding arbitration or final offer selection. If a negotiated settlement is reached at any time during these procedures, the process is automatically terminated. Table 12 indicates the incidence of both types of resolution during the reporting period.

Table 12 Agreements Reached by Voluntary Binding Arbitration or Final Offer Selection, 1981-82

Board Classification	Agreements Reached by Voluntary Binding Arbitration	Agreements Reached by Final Offer Selection
Boards of Education — Elementary	—	—
Boards of Education — Secondary	2	—
County and District Combined Roman Catholic Separate School Boards	3*	—
Other School Boards	—	—
Total	5	—

* Includes separate awards for Carleton R.C.S.S. and the branch Affiliates of O.E.C.T.A. and A.E.F.O.

(a) Voluntary Binding Arbitration

Under the voluntary binding arbitration procedure, the parties may refer all matters remaining in dispute to either an arbitrator or a board of arbitration. Within 7 days of the appointment of the arbitrator or chairman of the arbitration board each party must submit to the other party and to the arbitrator/chairman, written notice of all matters agreed upon during negotiations and all matters remaining in dispute. The arbitrator or board of arbitration is responsible for determining procedures which give both parties full opportunity to present their evidence and make their submissions.

Within 60 days of the appointment of the arbitrator/chairman, or such longer period of time as the two parties may agree to, the arbitrator or board of arbitration must provide the parties with a written report of his/its decision. The decision of the arbitrator or board of arbitration is final and binding and the parties are required, within 30 days following receipt, to incorporate within a signed agreement the matters agreed to in negotiations and the decision rendered through arbitration.

Five agreements — including three of the sanction situations — were concluded using this form of dispute resolution during the 1981-82 negotiating year.

(b) Final Offer Selection

Under this resolution procedure, each party's final position concerning the items remaining in dispute, together with any supporting evidence, is presented to a selector and the other party within 15 days of appointment of the selector. The parties may then provide written responses to the other party's position and the selector may hold a hearing.

Within 15 days of the hearing (or notice from the parties to dispense with the hearing), the selector must choose one party's final offer in its entirety. This offer is then incorporated into an agreement which also includes those items agreed to by the parties during negotiations.

Final offer selection was not used during 1981-82.

8. Grievance Arbitration

Grievance procedure clauses in some collective agreements specify that the Commission be asked to appoint a single arbitrator or chairman of an arbitration board to resolve a ***grievance*** as a final and binding step of the procedure.

During 1981-82, the Commission made 3 such appointments, all of which were chairmen of arbitration boards. The Commission made 14 appointments the previous year, 3 of which were for single arbitrators.

A significant development during this negotiating year was the formation of a list of approved grievance arbitrators, a copy of which is available on request.

**Table 13 Appointments Concerning Grievance Arbitration,
1981-82**

Board Classification	Number of Appointments By ERC	Nature of Appointments
Boards of Education — Elementary	1	Chairman
Boards of Education — Secondary	2	Chairman
County and District Combined Roman Catholic Separate School Boards	—	Chairman
Other School Boards	—	—
Total	3	

9. Supervised Votes: Last Offer, Strike and Ratification

Prior to any strike activity, the teachers must first request (in writing) the Board's last offer concerning all matters agreed upon and all matters remaining in dispute. A secret ballot vote on the board's last offer must then be conducted under the Commission's supervision. If the teachers reject this offer, a second secret ballot vote to determine whether the teachers favour a strike may then be held, again under the supervision of the Commission.

As indicated in Table 14, during 1981-82 the Commission was called upon to supervise 12 votes by teachers on a school board's last offer and ten votes on strike action. The Commission also supervised five ratification votes on agreements made after the termination of a strike. Table 14 also includes information on the number of last offer and strike votes supervised by the ERC since the inception of the Act. On two occasions during the negotiating year — Peel Secondary and Northumberland and Newcastle Secondary — teachers voted to accept the Board's Last Offer.

Table 14 Supervised Board's Last Offer, Strike and Ratification Votes, 1975-76 to 1981-82

Vote	1975-76	1976-77	1977-78	1978-79	1979-80	1980-81	1981-82
Board's Last Offer Votes							
Elementary	—	—	2	1	1	—	—
Secondary	15	5	8	9	12	1	7 ¹
R.C.S.S.	—	5	5	3	12	3	5 ⁴
Other	—	—	—	1	1	1	—
Total	15	10	15	14	26	5	12
Strike Votes							
Elementary	—	—	1	1	1	—	—
Secondary	15	4	7	4	9	1	5 ^{1,2}
R.C.S.S.	—	1	4	2	7	2	5 ⁴
Other	—	—	—	1	1	—	—
Total	15	5	12	8	18	3	10
Ratification Votes							
Elementary	—	—	—	—	2	—	—
Secondary	—	1	5	2	4	2	3 ³
R.C.S.S.	—	—	1	—	2	1	2 ⁴
Other	—	—	—	—	—	—	—
Total	—	1	6	2	8	3	5

Note: Board of Education with Metropolitan Toronto counted individually.

¹Includes separate votes conducted by O.S.S.T.F. and A.E.F.O. in Simcoe.

²Includes vote taken in Northumberland and Newcastle, but not counted as Branch Affiliate, in supervised vote, voted to accept the last offer received from the school board.

³Includes two (2) votes in West Parry Sound as first vote resulted in rejection.

⁴Includes separate votes conducted by O.E.C.T.A. and A.E.F.O. in Carleton R.C.S.S.

10. Determination of Good Faith Bargaining

Four complaints of failure to bargain in good faith were filed with the Commission during 1981-82, and were dealt with as indicated in Table 15. A complaint filed during a previous reporting period was also dealt with.

In June of 1981, the Hamilton-Wentworth Branch Affiliate of the Ontario English Catholic Teachers' Association and L'Association des enseignants franco-ontariens requested the Commission to make a determination regarding good faith bargaining pursuant to section 60 (1)(f) of the *School Boards and Teachers Collective Negotiations Act*. Specifically, the teachers wanted a determination as to whether the Board violated its duty to negotiate in good faith when it passed a resolution implementing a reorganization of the departmental leadership structures in its high schools, at a time when this matter was the subject of collective negotiations between the parties.

The 17-page determination, issued November 30, 1981, reviewed the leadership structure within the Board since 1975, and the evidence presented at the hearing. In speaking to the obligation under the Act, it states:

Before examining the circumstances and declarations of the parties, in this case it is necessary to consider the scope of the duty to bargain in good faith created by the *School Boards and Teachers Collective Negotiations Act*. In many respects the Act parallels conventional labour relations legislation. It contains the fundamental provision of all such statutes that the parties bargain in good faith and make every reasonable effort to make or renew a collective agreement. However, the Legislature has included in section 8 of the Act, a provision that may be unique in labour relations statutes. The words of this section are clear and therefore resort may not be had to extrinsic materials as a guide to interpretation. It is noted, however, that at the time the *Negotiations Act* was passed, there was widespread disagreement between school boards and teachers' federations as to what matters were to be the subject of collective negotiations and what matters were solely items of board policy. Many boards took the view that only salaries were negotiable and all other terms and conditions of employment were the sole prerogative of the board, to be established unilaterally in its policies. In the opinion of the Commission section 8 resolved this question. It clearly requires that the parties negotiate "in respect of **any** term or condition of employment put forward by either party" (emphasis added).

Where one party by its conduct or statement indicates its refusal to negotiate a term of employment put forward by the other at the negotiating table, it violates section 8 of the *Negotiations Act* and deprives the other party of an important substantive right conferred by the *Act*. In such a case, it cannot be said that the party is negotiating in good faith and making every reasonable effort to reach an agreement as required by section 11 of the Act.

While a party to negotiations under private sector legislation may flatly refuse to negotiate a term put forward in negotiations by the other without necessarily violating the duty to bargain in good faith imposed under such legislation, it is significant that such legislation does not contain a provision equivalent to section 8. Further, bargaining rights in the private sector ensue from certification procedures in which employees have the right to vote as to whether they are to be represented by a bargaining representative in collective negotiations. In the education sector, bargaining rights are the subject of mandatory legislation in the *Teaching Profession Act. R.S.O. 1980, c.495 and the Negotiations Act*. There are no certification or decertification proceedings and no board can avoid its duty to bargain by negotiation tactics intended to avoid entering or renewing a collective agreement.

Accordingly, while labour board decisions in the private sector provide helpful guidelines as to the content of the duty to negotiate established in section 11, they will not be determinative of the issue and effect must be given to the above noted differences. In the education sector, the duty to negotiate set out in section 11 is a duty to participate actively in discussions with the other party, to furnish reasonable information and explanations as to positions taken, and to listen to and consider proposals advanced at the negotiation table by the other party in respect of every term or condition of employment put forward. This does not mean that agreement or compromise must be reached on every term but there must be meaningful discussions *on each term*. Further, this obligation does not preclude the board in compelling cases from passing resolutions affecting a term of employment which is the subject of negotiations as long as it is not animated by an intention to put the matter beyond the scope of negotiations. However, in such a case a refusal to continue to negotiate a term of employment put forward in negotiations will constitute a failure to bargain in good faith and to make every reasonable effort to make or renew an agreement in violation of section 11 of the Negotiations Act.

In conclusion, it was determined that the Board did fail to bargain in good faith and make every reasonable effort to renew the collective agreement. "We understand, since the date of the hearing the parties have reached a tentative agreement and therefore we will not make any determination as to remedy in this case."

Copies of this determination are available upon request from the Commission's office.

Table 15 Good Faith Bargaining Charges, 1981-82

Complainant	Respondent	Disposition
Branch Affiliate of O.E.C.T.A. and A.E.F.O.*	Hamilton-Wentworth R.C.S.S. Board	Upheld
Branch Affiliates of F.W.T.A.O. and O.P.S.M.T.F.	Lennox & Addington County Board of Education	Terminated
Branch Affiliate of O.S.S.T.F.	Simcoe County Board of Education	Withdrawn
Branch Affiliates of F.W.T.A.O. and O.P.S.M.T.F.	Simcoe County Board of Education	Withdrawn
Branch Affiliates of F.W.T.A.O. and O.P.S.M.T.F.	Muskoka Board of Education	Withdrawn
Branch Affiliates of O.S.S.T.F.	Lake Superior Board of Education	Pending

* Initiated during the previous year.

11. Advisements

All sanction situations were terminated through voluntary negotiations by the parties.

12. Legislation

Bill 127

During the reporting year The Minister of Education introduced legislation which if proclaimed will have a significant impact on Teacher-Board negotiations in Metro Toronto.

The Bill, as introduced, provides for Metropolitan Toronto School Board and six boards of education having jurisdiction within the boundaries of Metropolitan Toronto to bargain jointly with their elementary and secondary school teachers respectively on salaries and financial benefits and on the method used to determine the number of teachers to be employed by each board.

Negotiations with respect to local concerns will continue to be carried out between the local boards and the individual branch affiliates.

In the Committee stage the Chairman and Chief Executive Officer of the Education Relations Commission were requested to appear before the Standing Committee of Social Development on June 16. The following excerpt from Hansard is included to indicate the position of the Commission vis-a-vis Bill 127.

J.J. Bradley (St. Catharines L): Perhaps I can ask these gentlemen whether they see any areas of difficulty that have arisen in the past couple of years. I will not ask you to say whether you feel there is a need for legislation or not.

Dr. Downie: I think our positions as a commission has always been that we are an administrative body, not a policy-making body. When the Matthews commission was looking into the workings of BILL 100, the commission, as a group, felt that in terms of a position it should really not touch to any great extent on areas of difficulty or what was working and so on.

If you have read our brief to the Matthews commission, it was a very bland brief with one exception. We did recommend that there be panel bargaining, that is, that all branch affiliates bargain together. The reason we did that, at that time, was our staff felt, and our staff still feels, that if there is individual bargaining on the part of the branch affiliates, their work load would go up very dramatically. For that reason, we made a recommendation in our brief to the Matthews commission on that matter. Other than that, we have really tried to stay away, to the extent possible, from matters of policy and we still very much feel that way.

It is very clear to us that BILL 100 is working well. The data for this more current round seems to be very good as well. I think we really covered your question in our report. When we reported that the record was very good, we were not suggesting that improvements could not be made or should not be made, nor were we recommending the opposite. We simply feel that as a commission we should stay away from those types of issues.

* * * * *

Mr. Bradley: . . . May we assume that the commission either volunteered to the Minister or was asked by the minister for views on BILL 127 which is presently being introduced into the Legislature on Metro-wide bargaining? Was the Commission consulted on that?

Dr. Downie: No. I have never talked to the Minister about that matter at all.

Mr. Bradley: So this is something, Madam Minister, that has arisen within your ministry as opposed to coming from recommendations you have received from the Education Relations Commission?

Hon. Miss Stephenson: Yes. That is a policy matter.

APPENDIX A PUBLICATIONS ISSUED DURING 1981-82

Teacher Board Collective Agreements: Individual Summaries

A Provincial Overview

Grievance Arbitration: Summaries of arbitration decisions arising out of differences between the parties under the *School Boards and Teachers Collective Negotiations Act*.

Teacher Placement: Grid Distributions of Ontario Teachers, Total Staff and Enrolment, January 31, 1982.

Monograph Series:

No. 22: Compensation Statistics, 1980-81

No. 23: Weighted On-Grid Average Salaries, 1980-81 & 1981-82

No. 24: Public-Teacher Ratios, 1976-1981

No. 25: Insured Benefits Plans and Retirement Gratuities, 1981-82

Clause File Series:

No. 18: Separation Allowance Provisions, 1980-81

No. 19: Long-Term Federation Leave Provisions, 1981-82

No. 20: Instructional and Non-Instructional Load Provisions, 1981-82

No. 21: Staff Allocation Provisions, 1981-82

No. 22: Pupil-Teacher Ratio Provisions, 1981-82

APPENDIX B SANCTION RECORD

Sanction Record, 1975-76 to 1981-82

Year/ School Board	Total Sanction Days	Total sanction Days Excluding Work-to-Rule
1975-76 Secondary (6):*		
**Central Algoma	35	35
Kent County	66.5	13.5
**Kirkland Lake	44	44
**Metro Toronto	38	38
**Sault Ste. Marie	46	13
**Windsor	27	26
Year Average	42.7	28.2
	(40.6)***	(32.7)***
1976-77 Secondary (2):		
Peel	44	0
Stor., Dundas, Glengarry	24	24
Year Average	34.0	12.0
R.C.S.S. (1)		
Durham	9	9
Year Average	9.0	9.0
1977-78 Secondary (5):		
Essex	16	16
Huron	31	31
Perth	41	0
**Renfrew	73	44
Wentworth	49	16
Year Average	42.0	21.4
R.C.S.S. (1):		
Essex	34	34
Year Average	34.0	34.0
1978-79 Secondary (3):		
Haldimand	36	36
Kirkland Lake	30	26
York County	5	2
Year Average	23.7	21.3
1979-80 Elementary (2):		
Brant	22	22
Peel	14	13
Year Average	18.0	17.5
Secondary (3):		
Lambton	39	39
North York	40	0
**Sudbury	56	56
Year Average	45.0	31.7
1980-81 Secondary (3):		
Bruce	40	38
Leeds and Grenville	30	30
Norfolk	48	47
Year Average	39.3	38.3
1981-82 Secondary (2):		
West Parry Sound	51	51
Year Average	51.0	51.0
R.C.S.S. (2)		
Carleton (OECTA)	19	19
Carleton (AEFO)	11	11
Year Average	15.0	15.0

* 11 sanctions if Metro = 6.

** An advisement was made pursuant to section 60 (1)(h).

*** Average if Metro = 6.

**APPENDIX C STATEMENT OF EXPENDITURES,
APRIL 1, 1981 – MARCH 31, 1982**

Categories	Budget Allocation \$	Actual Expenditures \$
Salaries and Wages	470,000*	467,345
Employee Benefits	66,700*	61,414
Transportation and Communication	134,600	168,009
Communications	9,100	21,301
Mailing	9,500	10,086
Freight	500	0
Relocation Expenses	0	1,629
Travel-Public Servants	36,000	27,884
Travel-Others	79,500	107,109
Services	437,500*	395,990
Advertising — Agencies	500	0
Advertising — Print, Design	500	41,363
Rental Services	6,500	8,659
Data Processing	80,000	28,425
Housekeeping	0	0
Conference Expenses	10,000	9,080
Commissioners	30,000	28,170
Professional Services	268,500	239,140
Building Maintenance	500	786
Equipment Maintenance	1,000	2,168
Special Services	40,000	37,656
Inter-Branch Transfer	0	543
Supplies	54,500	61,951
Data Processing Equip./Supplies	0	31,709
Office Furniture	1,000	2,859
Veh. Components, Fuel	0	12
Office Equipment	0	364
Clothing, Personnel & Household	0	64
Lab. Equip./Drugs	0	1
Utilities, Other Supplies	0	116
Office Supplies	8,000	3,931
Books/Publications	45,000	22,297
Drafting & Exhibits	0	598
Inter-Branch Transfers	500	0
Total	1,163,300*	1,154,709

* Revised — Management Board of Ontario

**APPENDIX D SUMMARY OF NEGOTIATIONS,
1981-82**

Negotiations conducted in accordance with the Act

Total Number of Negotiations Conducted by Boards and Teachers in Ontario	168
Number of Negotiations Not Requiring Formal Commission Assistance	102
Number of Fact Finders Assigned	50
Number of Situations where Mediator Assigned	47
Settlements by Voluntary Binding Arbitration	5
Settlements by Voluntary Final Officer Selection	—

Note: In some sets of negotiations both a fact finder and a mediator were assigned.



Ontario

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EDUCATION RELATIONS COMMISSION

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Annual Report

1982-83



Ontario

**Education
Relations
Commission**

Telephone (416) 922-7679

**111 Avenue Road
Suite 400
Toronto, Ontario
M5R 3J8**

To: The Members of the Legislative Assembly
Province of Ontario

**ANNUAL REPORT
1982 - 83**

Dear Members:

We have the honour to present the Eighth Annual Report of the Education Relations Commission, which covers the period from September 1, 1982 to August 31, 1983.

The Education Relations Commission

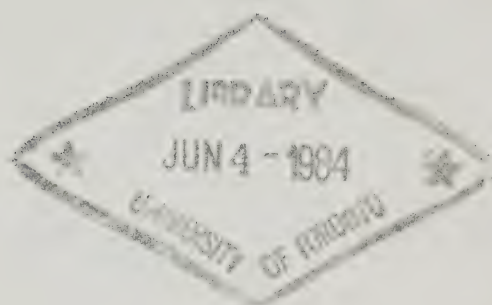


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OVERVIEW

The reporting year for the Commission — September 1, 1982 to August 31, 1983 — was characterized by substantial change in a number of areas.

Commissioners:

Four vacancies were created on the Commission during the year. John Ronson and Gabrielle Levasseur, who were members of the original Commission in 1975, completed their second three-year terms. Their contributions, directly to the Commission and indirectly to the education sector, illustrated statesmen-like qualities which were necessary both in the formation and establishment of the Commission. Brian P. Bellmore, who served one three-year term as Vice-Chairman and Gail Brent declined to stand for reappointment due to other pressing commitments. Both made significant contributions to the Commission.

Four new Commissioners were appointed, T. Gary O'Neill, an Ottawa lawyer, was appointed to and designated as Vice-Chairman. Appointed as Commissioners were Harvey M. Nightingale, Louise D. Binder and Donald S. Felker. (For Biographical details see page 8).

In October of 1982, Dr. Bryan M. Downie was reappointed to and designated as Chairman for a second three-year term.

Bill 179

An Act respecting Restraint of Compensation in the Public Sector of Ontario and Monitoring of Inflationary Conditions in the Economy of the Province, commonly referred to as Bill 179 or the Inflation Restraint Act, had a significant effect on bargaining in the education sector. Bargaining stopped when the Bill was given first reading in the Legislature on September 21, 1982, and did not resume for approximately three months. However, a certain degree of ambiguity surrounded the interpretation of the Act, which was given third reading on December 15, 1982. (For details see page 6.) After this date, most negotiations in the province resumed and in all but a handful of cases the parties concluded new agreements by the end of the reporting year.

The time period from first to third reading presented a problem for the Commission. Due to the uncertainty concerning when and if Bill 179 would be proclaimed, the Commission felt that the appointment of fact finders and mediators should continue, as called for under the provisions of the *School Boards and Teachers Collective Negotiations Act*. The parties, however, requested that fact finder reports not be released until after Bill 179 had been passed. Therefore, the Commission was faced with unusual delays in negotiations and a very marked decrease in the number of settlements reported in the Fall of 1982. The net result was that more fact finders were appointed and, contrary to the previous two rounds, negotiations for the 1982-83 year were extended considerably when compared with past negotiation rounds.

Commission Response To Bill 179

As noted above, Bill 179 was subject to a number of different interpretations regarding its implications for collective negotiations in Ontario's public sector. Because of this, the Commission obtained two legal opinions regarding this matter. After careful consideration, the following motion was passed by the Commission:

"The Commission will continue to carry out its duties and obligations under the provisions of the *School Boards and Teachers Collective Negotiations Act* including without limitation, the appointment of Fact Finders and persons to assist."

The Commission, however, stated that its position did not include the supervision of strike votes. Copies of this motion, with explanation were sent to provincial and local trustee and teacher organizations.

Determination

In a dispute between the Durham Board of Education and District 17 of the Ontario Secondary School Teachers' Federation, the Board questioned the jurisdiction of the Commission to hear a Bad Faith Bargaining charge because of the passage of Bill 179. In its determination, the Commission concluded that the Inflation Restraint Act and the *School Boards and Teachers Collective Negotiations Act* are not in conflict and it thus had jurisdiction to hear the case. The determination also noted:

At a time when our social and economic problems cry out for dialogue between our major institutions at every level (particularly between employer and employee representatives) it would be ironical indeed for public policy to shut off dialogue through a narrow interpretation of "restraint" legislation.

Judicial Review

In June the respondent, the Durham Board of Education, indicated it would seek judicial review of this determination. The court set aside September 21 and 22 for this hearing.

Bill 127

A second piece of legislation, *An Act to Amend the Municipality of Metropolitan Toronto Act* was passed during the reporting year. This Act requires the *joint* bargaining of the Metropolitan Toronto School Board and the six school boards within the boundaries of Metropolitan Toronto with the elementary and secondary school teachers, respectively. Matters subject to joint negotiations are: salaries, financial benefits and the method used to determine the number of teachers to be employed by each board.

Negotiations with respect to local concerns will continue to be carried out between local boards and the individual branch affiliate. Significant amendments were made to this Act prior to passage but its impact on negotiations remains to be seen.

Training (Third Parties)

The Commission is directed by Section 60(1)(e) of the Act "to select and where necessary train persons who may act as mediators, fact finders, arbitrators or selectors". In the previous year the Commission reported the production of a training film called "Apples Won't Get It Anymore" for use in its development of third parties and also for the education of the parties. This film was used as the focus of the mediation workshop in June where, 50 experienced third-parties previewed the film and took part in role-play situations designed by E.R.C. staff. As well, two noted experts in dispute resolution, John J. Popular and Tom Colossi addressed the workshop.

A workshop for fact finders was held in May. Forty prospective third-parties — mainly lawyers, academics and former educators, attended sessions which dealt with the Act, school finances, and the fact finding process.

Mediation

The number of negotiating situations increased from 168 in 1981-82 to 173 in 1982-83. The insertion of a mediator just prior to the appointment of a fact finder is a dispute resolution strategy followed by the Commission. In 1982-83, however, the number of pre-fact finding mediation appointments decreased due to the timing and impact of the Inflation Restraint Act. In spite of the lower number, the results of pre-fact finding mediation, as presented in Table 9, indicate its utility as a dispute resolution technique.

Fact Finding

The number of negotiating situations increased by 5 in 1982-83, while the number of fact finding appointments increased by 12. In 1982-83, 62 fact finders were appointed as opposed to 50 in 1981-82. As noted earlier, this was due to the introduction of the Inflation Restraint Act in the Fall of 1982.

Personnel Changes

J.A. (Sam) McKeown, who had been Director of Field Services with the Commission since 1975, retired in January of 1983. Mr. McKeown played a major role in developing the liason style which the Commission evolved in its dealings with teacher and school board organizations, both on a provincial and local level.

The Commission moved to fill this vacancy in April with the appointment of V. (Bill) Piliotis as Director of Field Services. Mr. Piliotis had been Director of Employee Relations with the Windsor Board of Education since 1975. He has also been with the Ministry of Labour, where he played a major research role in preparation for the development of the *Teachers and School Boards Collective Negotiations Act*. Previously he worked as a union organizer. He, therefore, brings to the Commission substantial expertise in both labour relations generally and education specifically.

J TEACHER/SCHOOL BOARD BARGAINING IN ONTARIO – A BRIEF HISTORY

On July 18, 1975, legislation granting Ontario teachers the right to bargain collectively and the right-to-strike was enacted in Ontario. Prior to the passage of legislation, which would become known as Bill 100, the Ontario government had proposed legislation which included compulsory arbitration rather than the right-to-strike. In response to the proposed statute (Bill 275), both teacher and trustee organizations, albeit for different reasons, lobbied the Government to include the right-to-strike in the legislation. The right-to-strike became a priority for the teachers because they viewed compulsory arbitration as an ineffective form of dispute resolution. The trustees viewed compulsory arbitration as both an imposition on, and an erosion of, local board autonomy and, therefore, in conflict with the principle of representative government.

Moreover, those who drafted Bill 100 were convinced by events in the education sector as well as other jurisdictions that strike-prohibiting legislation is not always effective. In fact, it was felt that it could have the opposite effect. There was — and is — a feeling by many labour relations experts that legislation prohibiting strikes may expand or magnify employer-employee confrontation. The primary reason for proposing Bill 100 was to introduce to the province some stability and order in teacher-board bargaining, and against this background the right-to-strike was included in the legislation.

The need for legislation regarding teacher-board negotiations was obvious in the early 70's. Teachers were demanding the right to collectively bargain such issues as working conditions, grievance procedures, and financial matters. Some trustees viewed the collective bargaining process as an infringement of management rights. The net result, in the absence of legislation, was that bargaining took place in a vacuum and that relationships between trustees and teachers were deteriorating both on an individual and organizational basis.

The School Boards and Teachers Collective Negotiations Act, 1975, brought order to this confusion by providing ground rules for collective bargaining. Although the most publicized feature of the Act was the right-to-strike, realistic alternatives such as **voluntary** arbitration or final offer selection were provided at each step in the bargaining process. Events leading to a **legal** strike or lock-out under the Act were regulated. For example, a strike or lock-out under the Act is not legal until:

- a) A fact finder has met with the parties and his report has been made public; and
- b) A 30-day cooling-off period takes place after the fact finder's report is submitted to the parties; and
- c) The teachers have voted — by secret ballot in a supervised vote — on the last offer of the school board; and

- d) The teachers have noted — by secret ballot in a supervised vote — to take strike action.

Other features of the Act were also significant. Negotiations take place at the county board level between the local teachers' federation(s) and the school board. The scope of negotiations is open, i.e., all matters are negotiable. Each collective agreement is deemed to contain a procedure for binding settlement of disputes arising out of administration of the agreement if such a procedure has not been negotiated locally, and a strike or a lock-out is illegal during the term of the collective agreement.

Finally, the Act provided for a five-man commission — The Education Relations Commission — to monitor and assist all local negotiations between teachers and school boards and to administer the Act. The Commission was given seven specific functions under section 60 of the Act which are outlined below.

1. Monitoring all negotiations;
2. Collecting and providing data to all parties in collective negotiations;
3. Assisting the parties in their collective negotiations;
4. Training third party neutrals;
5. Adjudicating bad faith bargaining charges;
6. Supervising last-offer, strike and ratification votes;
7. Advising the Lieutenant Governor in Council concerning jeopardy to students' courses of study in the event of strike and/or lock-out.

Four years after the passage of Bill 100, the Minister of Education announced in the Legislature the establishment of a Commission to review the collective negotiations process between teachers and school boards. This Commission — referred to as the Matthews Commission — chaired by Dr. B.C. Matthews, the President of the University of Waterloo, submitted its report to the Minister of Education, in June of 1980. Based on the experience during the first five years of Bill 100, the Matthews Commission proposed a small but nevertheless significant set of recommendations to change the Act.

Redundant sections of the Act were removed in 1981 during a review of legislation by the Provincial Government. As well, the name of the Act was changed to the *School Boards and Teachers Collective Negotiations Act, Revised Statutes of Ontario, 1980, Chapter 464*.

II INFLATION RESTRAINT ACT

Teacher-Board negotiations were significantly altered when *An Act respecting the Restraint of Compensation in the Public Sector of Ontario and Monitoring of Inflationary Conditions in the Economy of the Province* — Bill 179 — was introduced. Briefly, Bill 179, introduced in the Legislature on September 21, 1982, limited compensation increases in the public sector to up to 9 percent in the first year of the program (the “transitional” year) and to 5 percent in the second year (the “control” year). The legislation removed the right-to-strike or lock-out and also provided for the formation of the Inflation Restraint Board (IRB) to administer the Act, set its internal policy and procedures, and to monitor wage and price controls in the public sector.

The introduction of Bill 179 had an immediate effect on the progress of teacher-board negotiations. In almost every instance, across the province, negotiations were stalled as the parties assessed the implications of the proposed legislation. During the three month period from the time the Bill was introduced until it was proclaimed the bargaining atmosphere was adversely affected as uncertainty about the implications increased. This uncertainty persisted as bargaining slowly resumed.

In this regard, the significant sections of the Act are as follows:

Section 13: which extends the terms and conditions of the collective agreement;

Section 14: which allows the parties to a collective agreement to apply to the IRB with respect to certain disputed matters;

Section 15: which states that parties to a collective agreement which includes a compensation plan that is extended under Section 11 may, by agreement, amend the terms and conditions . . . other than compensation rates . . .

In many jurisdictions negotiations proceeded normally within the constraints imposed by the provisions of Bill 179.

Collective agreements were signed which reflected the 9% ceiling on increases in the grid. In others, negotiations ceased as Boards took the position that section 13 of the legislation extended the collective agreements thus removing the obligation to bargain. This issue ultimately was placed before the Commission in the form of an application by the secondary school teachers employed by the Durham County Board of Education for a determination with respect to good faith bargaining. The details of this application are contained on page 45.

III THE COMMISSION – MEMBERS AND ORGANIZATION STRUCTURE

The Education Relations Commission is composed of five members appointed by the Lieutenant Governor in Council. The term of appointment may range from one to three years and each member of the Commission is eligible for reappointment upon the expiration of the term. Dr. Bryan M. Downie was first appointed Chairman of the Commission on November 1, 1979 and was reappointed for a second term on October 31, 1982. T. Gary O'Neill was appointed Vice-Chairman on December 22, 1982. Louise D. Binder was appointed a Commissioner in February of 1983, Donald S. Felker in February of 1983 and Harvey M. Nightingale in October of 1982. A biographical sketch of each of the Commissioners is contained on pages 8 and 9.

The Commission has a permanent staff of 16 individuals. In order to oversee bargaining in the more than 230 sets of negotiations which fall under its jurisdiction, the Commission must rely on external human resources. Therefore, in addition to its permanent staff, the Commission utilizes a cadre of more than seventy individuals who are appointed on a contractual basis as third party neutrals. This arrangement has allowed the Commission to attract and continue to appoint some of the most able third parties in the province.

All appointments and all major decisions and determinations are made by the Commission per se. The day-to-day operations of the Commission, however, are managed by a Chief Executive Officer. The operations of the ERC are divided into two major functions – Field Services and Research Services. (An organization chart is provided on page 11.) Briefly, Field Services monitors negotiation activity at the local level, while Research Services provides data to all parties in negotiations.

The small size and the vast experience of its permanent staff, combined with the high calibre of its part-time people, has allowed the Commission to quickly and effectively respond to the needs of the parties and the public.

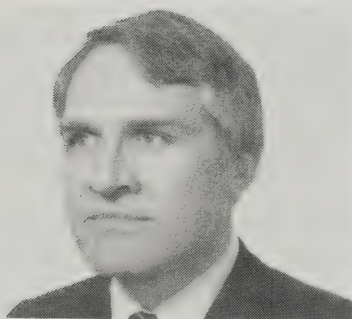
MEMBERS OF THE COMMISSION



Chairman —

BRYAN M. DOWNIE, B.A. (Concordia, Minnesota), M.B.A. (University of Chicago), Ph.D. (University of Chicago).

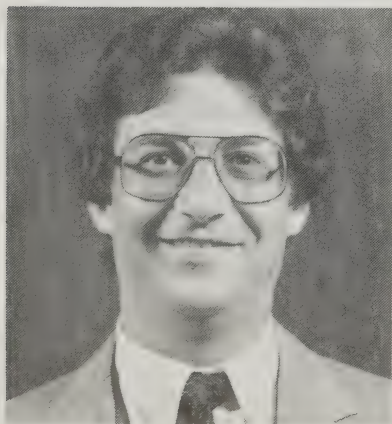
Dr. Downie, (Professor, Industrial Relations and Public Policy, Queen's University) has served as a fact finder, mediator, and interest arbitrator. He has published extensively in the area of labour relations and his book, *Collective Bargaining and Conflict Resolution in Education* examines the activities and policies of the Education Relations Commission during the formative years. He is Canadian Director and a Board member of the Society of Professionals in Dispute Resolution, an association of third party neutrals based in Washington, D.C. and is currently President-Elect of the Canadian Industrial Relations Association and a member of the Board of Directors of the Social Science Federation of Canada.



Vice-Chairman —

T. GARY O'NEILL, B.A. Sc. (University of Toronto), M.Eng. (Carleton), LL.B. (University of Ottawa)

Mr. O'Neill is a member of an Ottawa law firm who is knowledgeable in both dispute resolution and the issues in the Education sector of Ontario. Since 1977, Mr. O'Neill has served as a third-party on numerous occasions.



Commissioner —

HARVEY M. NIGHTINGALE, B.A. (University of Western Ontario), M. Ed. (University of Toronto), M.A. (York University).

Mr. Nightingale served as Director of Economic and Legislative Services for the Ontario Trustees Council from 1973 to 1981. In this position he was responsible for both developing and articulating the trustee position on various educational issues, including collective bargaining — *the School Boards and Teachers Collective Negotiations Act*.

Mr. Nightingale is Executive Director of the Ontario Nursing Home Association.

Commissioner —

LOUISE D. BINDER, B.A. (University of Toronto), LL.B. (Queen's University)

Miss Binder is Co-ordinator of Labour Relations with Gulf Canada Products Limited. Following graduation from law school she practised labour law for management with a Toronto law firm. Since 1977, she has been in private sector Employee Relations.

Miss Binder is also a member of the Ontario Public Service Labour Relations Tribunal.

Commissioner —

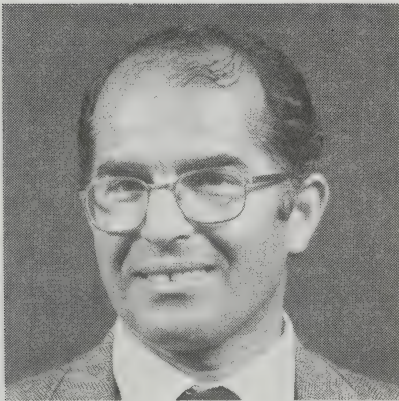
DONALD S. FELKER, B.A. (University of Ottawa), M.Ed. (University of Toronto) Ed.D. (University of Pennsylvania).

Dr. Felker, a self-employed educational consultant, has served as an appointee in both grievance and arbitration boards. He spent thirteen years in the Ontario Public School System as a Teacher, Vice-Principal and Principal and from 1968 to 1973, he served as General Secretary for the Ontario Secondary School Teachers' Federation. Dr. Felker is a Fellow of the Ontario Teachers' Federation and a Life Member of the Ontario Secondary School Teachers' Federation.

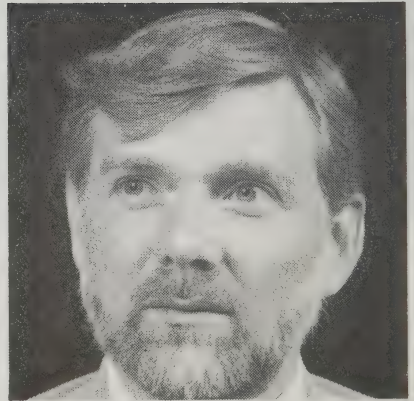
**SENIOR STAFF OF
THE COMMISSION**



ROBERT H. FIELD
Chief Executive Officer

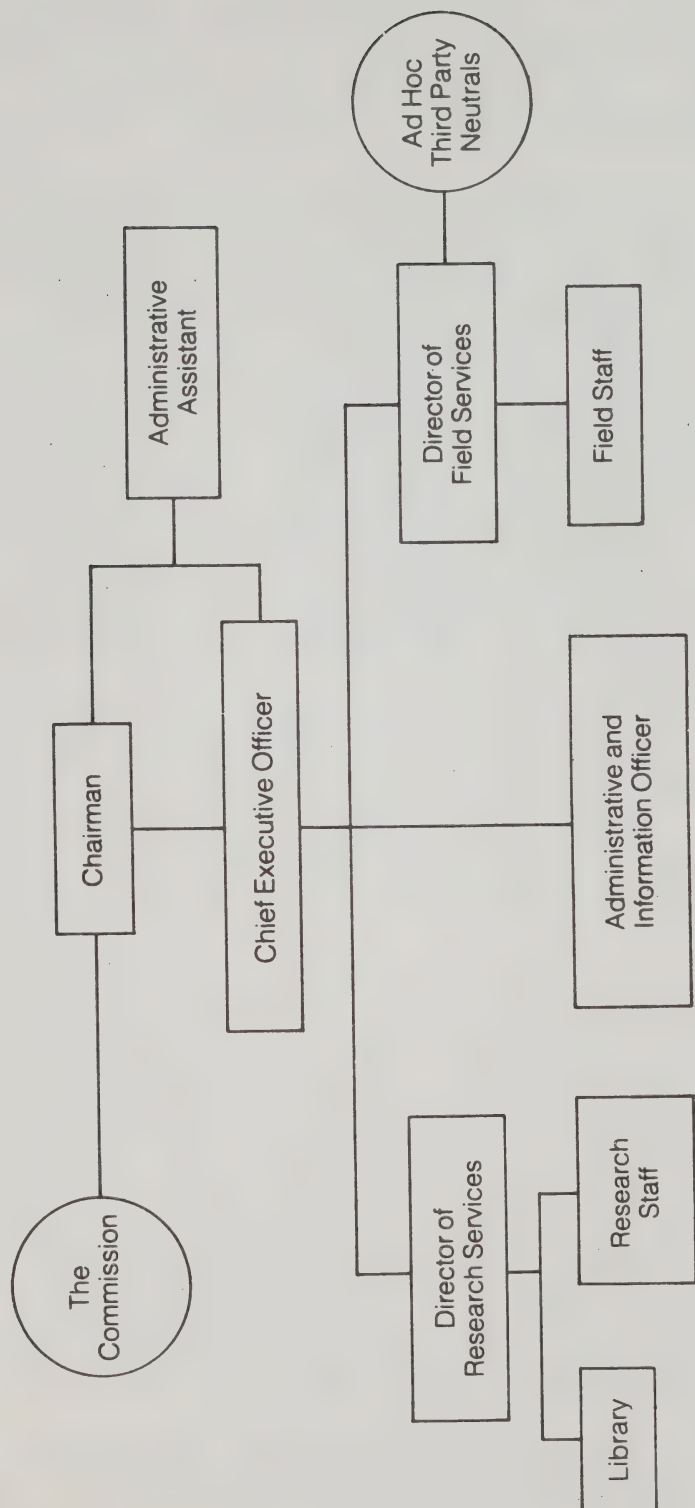


V. BILL PILOTIS
Director of Field Services



EDWARD M. AIM
Director of Research Services

Organization Chart: The Education Relations Commission



IV STAFF ACTIVITIES

1. Field Services

(a) Liason Activities

The Commission maintains its awareness of negotiations between teachers and school boards through its Field Services staff. The two Field Officers under the direction and supervision of the Director of Field Services are responsible for monitoring the negotiations in all jurisdictions in the Province. This regular contact, by both on-site visits and phone (see Table 1) enables the individual Field Service Officers to gain an understanding of emerging issues in negotiations and to become thoroughly familiar with the parties and important developments at the local level. In turn, the parties become better acquainted with the Commission's representatives and more knowledgeable about the Act and the Commission's policies, procedures and resources. Through this exchange, progress reports are gathered and procedures under the Act are clarified. In addition, Field Services staff are responsible for ensuring that statutory requirements are fulfilled and that last offer and strike votes are properly conducted and supervised.

Maintaining an intimate awareness of negotiations between branch affiliates* and school boards is particularly advantageous when appointments of third party neutrals by the Commission become necessary. In making judgments regarding the appropriateness or timing of an appointment and/or the individual to be named as mediator or fact finder in any given area, the Commission has been able to rely on the first-hand information and advice of its Field Services staff.

In the 1980-81 year, Field Services introduced a greater degree of *planning* into the appointment process, and this has been continued and refined during the reporting year. Field Services staff now formally analyze all upcoming sets of negotiations early in the negotiation year. The analyses include an assessment of the probable degree of difficulty of each situation and the identification of possible troublesome issues and potential barriers or stumbling blocks to settlement. Their analyses include, as well, recommendations on the style, timing and type of third party assistance appropriate to each situation. This material is summarized and evaluated against past historical developments in the particular teacher-board relationship. Through this system, more effective and economical appointments have emerged. Moreover, more informed decisions concerning third party appointments have resulted.

In an effort to enhance the quality of liaison activities, a three-year plan for field visit activities is being formulated.

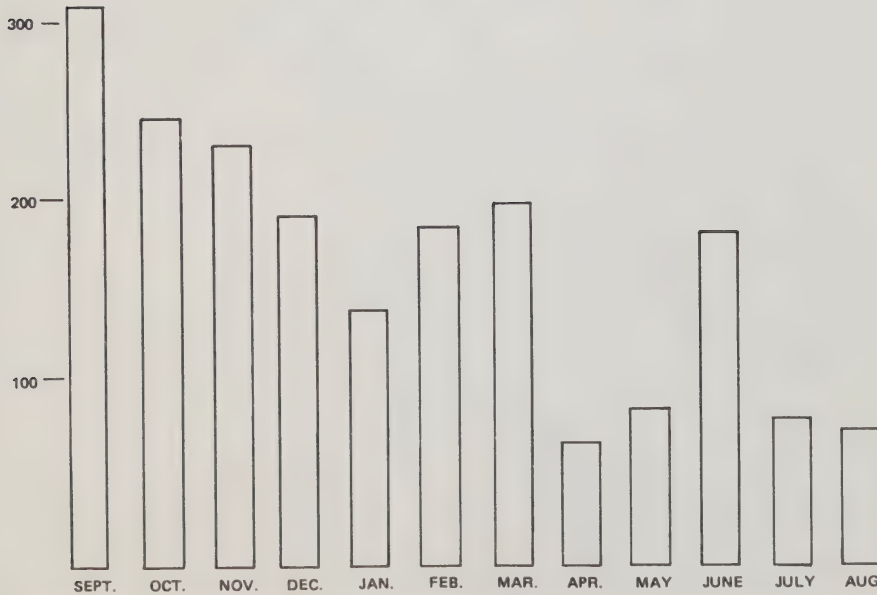
*A branch affiliate is composed of all the teachers employed by a board who are members of one of the Provincial teachers' federations or associations. A branch affiliate is comparable to a local union.

In the liaison activities, emphasis is placed on the Field Service Officers establishing a high profile with the parties and on strengthening the relations between the field officers and the branch affiliates and school boards in order to enable the Commission to provide the best possible services to the parties in their negotiations and teacher-board relations.

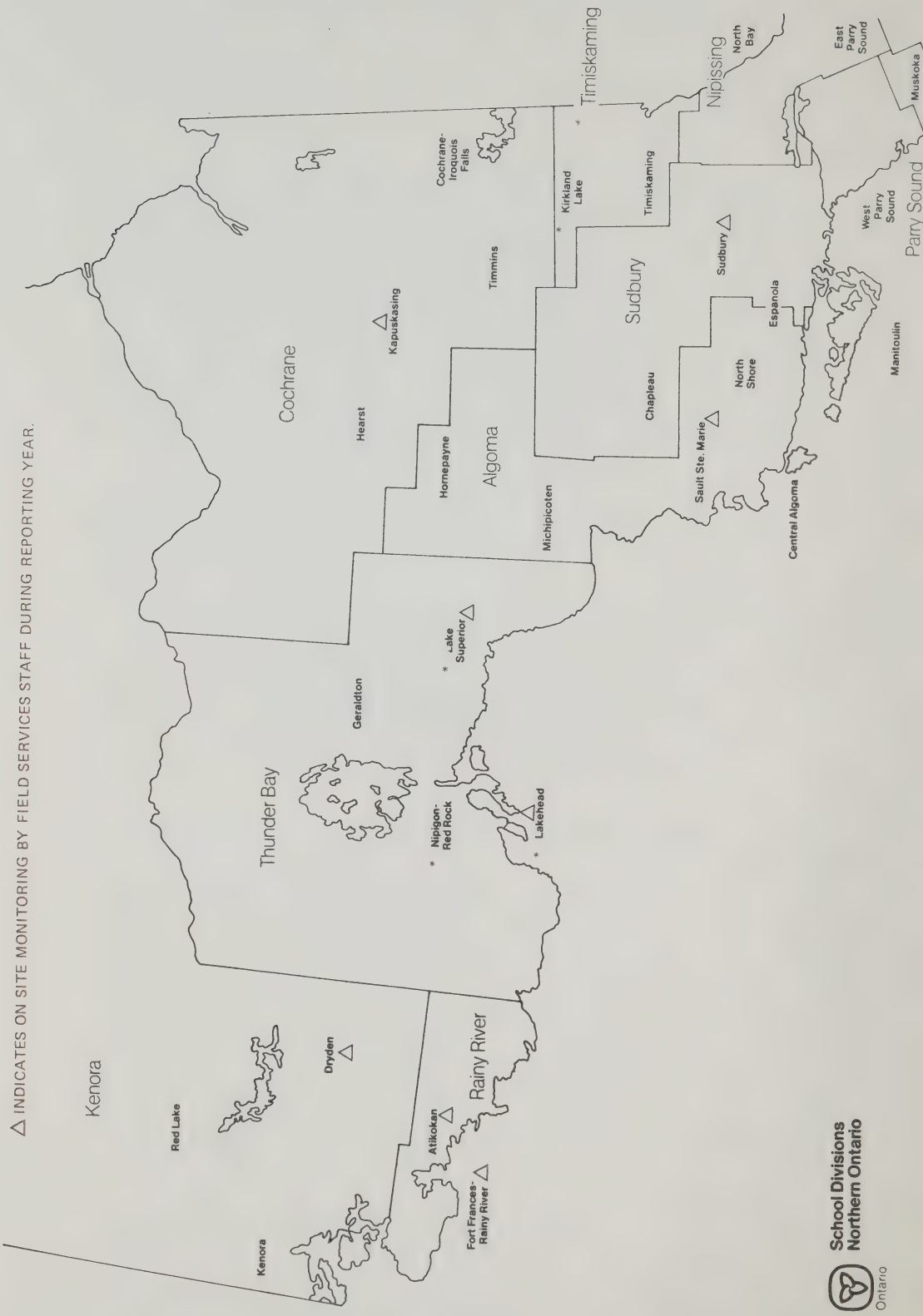
Field Services staff members no longer undertake mediation assignments. As recently as three years ago, staff members were assigned occasional mediation tasks for the Commission when such appointments seemed suitable and desirable. A decision was made by the Commission in 1980 to discontinue this practice. The Commission felt, and continues to feel, that direct involvement in negotiations by its staff would jeopardize the monitoring function of Field Services and the neutrality of the Commission. As a consequence all formal mediation is now undertaken by *ad hoc* third party neutrals. The Commission has developed a highly qualified, competent and totally professional group of third party neutrals upon which it can draw.

In addition to the monitoring and appointment process, Field Services staff members are intensively involved in both the planning and production of all of the Commission's workshops and *Technical Assistance* projects (see section (b)(i) below). They are responsible, as well, for the selection, training, evaluation, and professional development of the Commission's neutrals.

Table 1 **TELEPHONE CALLS IN-COMING AND OUT-GOING**
400 — **FIELD SERVICE MONITORING**



△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR.

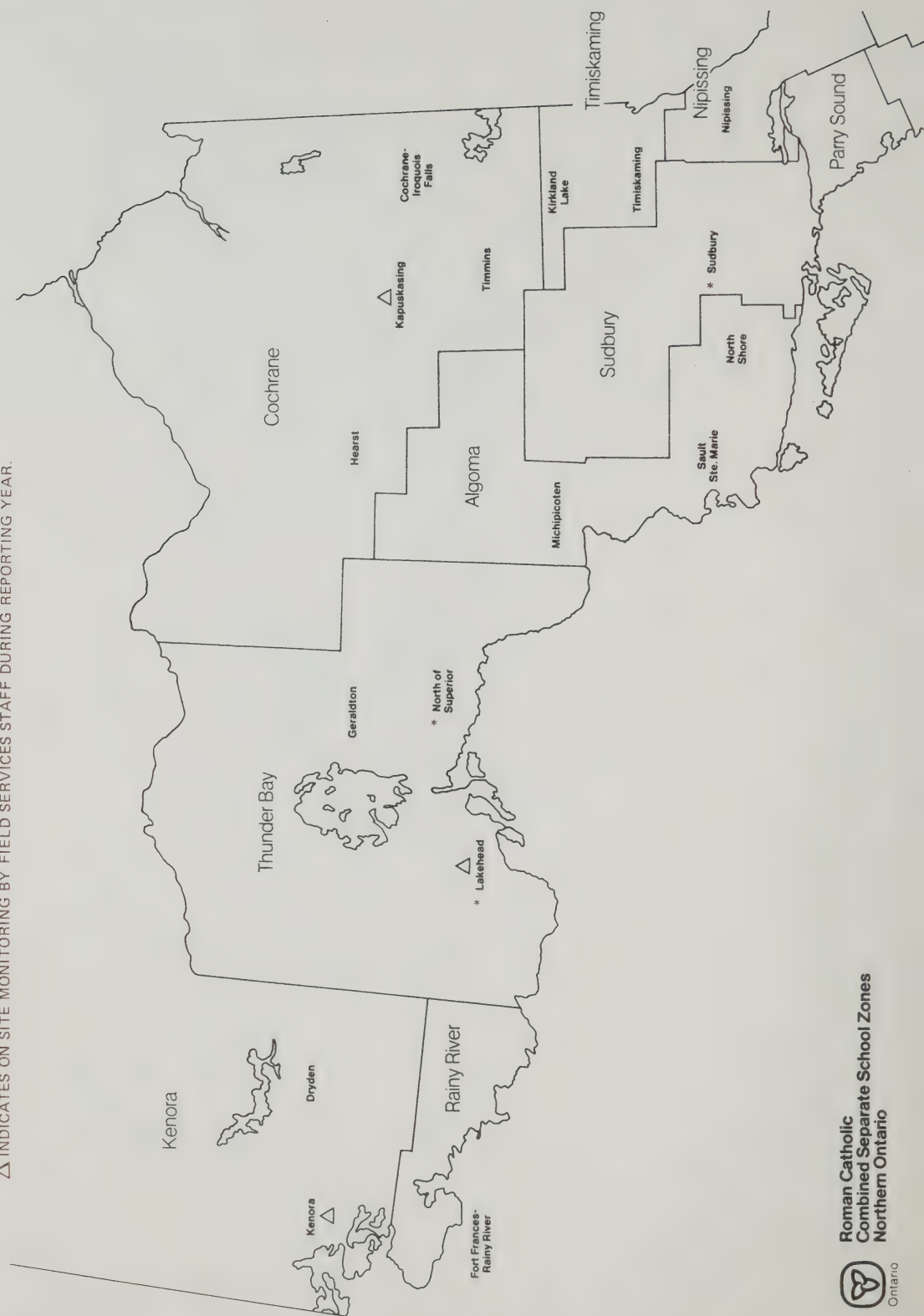




School Divisions
Southern Ontario



△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR.



**Roman Catholic
Combined Separate School Zones
Northern Ontario**





Roman Catholic
Separate School Zones
Southern Ontario



Ontario

(b) Preventive Mediation Programs

(i) Technical Assistance

This program is administered by the Field Services unit. Its main purpose is to assist the parties in reducing, if not eliminating, the obstacles which prevent the parties from resolving matters of mutual concern. In addition, the program attempts to equip the parties with tools which will enable them to conduct their negotiations in a more effective and efficient manner within the existing structure of collective bargaining. It must be stressed that the program is not designed to change the present structure of collective bargaining. However, it is designed to enhance it and to make it work for the benefit of both parties. In contrast to conventional mediation, *Technical Assistance* is normally conducted outside negotiations.

It should be stressed that *Technical Assistance* is offered only after both parties in a jurisdiction request ERC involvement.

Although experimentation with *Technical Assistance* began as early as 1979-80, an official program was not established until 1980-81. The commission has now conducted a total of 24 such programs over the last four years involving eleven jurisdictions.

Although *Technical Assistance* is a flexible, individually-tailored program, most parties have requested programs which emphasize relationships by objectives or workshops in the areas of communications, problem-solving, decision-making, and conflict management. Workshops have been conducted both separately and jointly with groups of trustees, administrators, and teachers. All of the *Technical Assistance* programs appear to have been successful as judged by follow-up monitoring of the parties' relationships, and their subsequent bargaining experiences.

Armed with the experience gained from conducting the 24 programs and with the comments received from the parties, the Commission is presently reviewing the *Technical Assistance* program. The purpose of the review is to improve the program by focusing on the needs of the parties.

Before the program is finalized, the Field Services staff will meet with the provincial federations and trustee organizations for their comments. Once the *Technical Assistance* program is finalized, workshops will be conducted in order to make the parties familiar with its objectives, how it works and what it is intended to accomplish.

(ii) Grievance Mediation

This program is designed to assist the parties in resolving differences between them which arise from the interpretation, application, administration or alleged contravention of the collective agreement. The use of this procedure does not preclude the parties from proceeding to arbitration if the matter is not resolved through mediation.

One purpose of grievance mediation is to alleviate the build up of negative attitudes which develop within a system because of unresolved grievances. Such grievances often become issues in negotiations. Moreover, grievance mediation is a method of solving disputes as close to the source and as quickly as possible. Lastly, grievance mediation is much less expensive than arbitration.

The Commission began to experiment with grievance mediation in 1979-80. Meetings were held with the provincial teacher federations and trustees associations to introduce the concept, and explain some of its advantages.

A training session for grievance mediators was held in 1980-81. Eight mediators from across the province attended a two-day workshop which was designed to acquaint them with the arbitral jurisprudence developing in Ontario education and with the unique aspects of the grievance mediation process. The purpose was to develop a group of experts from which the Commission can appoint as the need arises.

Grievance mediators have been appointed on five occasions. A complete listing is found on page 22. One appointment was made during the 1982-83 year.

HISTORY OF TECHNICAL ASSISTANCE

DATE	JURISDICTION	PARTIES	FACILITATORS	NATURE OF TECHNICAL ASSISTANCE
1979	Essex RCSS Bd.	Trustees, Administrators, Teachers	Dr. David Tough	Five meetings to set up ground rules for negotiations.
1979	Essex RCSS Bd.	Trustees, Administrators, Teachers	Bill McCordic	Assisted in developing a staffing formula for September 1980.
1979	Perth County Bd.	Trustees, Administrators, Secondary Teachers	Dr. David Tough	Chaired a committee of trustees, administrators and teachers on staffing and time-tabling in the secondary schools.
1979	Haldimand Bd. of Education	Trustees, Administrators, Secondary Teachers	Sam McKeown	Weekend workshop of Relationships by Objectives
Jan.-Feb., 1980	Wellington County Bd. of Education	Trustees, Administrators, Secondary Teachers	Kim Shearer	Facilitate cooperative bargaining process — 4 sessions totalling 67 hours.
May 1980	Halton Bd. of Education	Trustees and Administrators	Sam McKeown	Day and one-half workshop on Relationships by Objectives
June 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Kim Shearer	Three-day workshop on alternative methods of bargaining; representatives from 6 boards were brought together to discuss pros and cons of various methods.
June 1980	Haldimand Bd. of Education	Trustees, Administrators, Teachers	Sam McKeown	One-day workshop on communications.
Oct. 1980	Lennox & Add. County Bd. of Education	Trustees and Administrators	Sam McKeown	Day and one-half workshop on Relationships by Objectives.
Dec. 1980	East Parry Sound Bd. of Education	Trustees, Administrators Elementary and Secondary Teachers, CUPE	Kim Shearer Sam McKeown Eric Runacres Craig Crawford	Three-day workshop on Communication Skills.
Dec. 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Sam McKeown Eric Runacres	Three-day workshop on Problem Solving Skills.
Jan. 1981	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Sam McKeown Eric Runacres Craig Crawford	Three-day workshop on Contract Management.
Mar. 1981	Lambton County Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Kim Shearer Paul Doucette	Two-day workshop on Relationships by Objectives.

Oct. 1981	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Eric Runacres Jim Breckenridge	Two-day Evaluation workshop
Apr. -May 1981	London Bd. of Education	Administrators	Sam McKeown	Planning new approaches to administration in the 80's (Two one-day sessions).
June 1981	Haldimand Bd. Education	Trustees, Administrators, Teachers	Sam McKeown	One-day workshop on Communication Skills.
Feb. 1982	East Parry Sound Bd. of Education	Administrators, Elementary and Secondary Teachers	Eric Runacres	One-day workshop to review communication, problem-solving and conflict management skills, establish future goals; develop action steps.
Mar. 1982	Essex RCSS Bd. of Education	Trustees, Administrators, Teachers (OPSTF FWTAA, AEFO)	Eric Runacres	Two-day workshop on communication, problem-solving and conflict management skills.
Apr. 1982	East Parry Sound Bd. of Education	Administrators, Principals of all Elementary and Secondary schools, selected department heads from the Secondary school, and consultants who serve the system	Eric Runacres Don Musella	Three-day workshop of Leadership skill development in communications, problem-solving, decision-making and ways to handle conflict.
June 1982	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Craig Crawford Jim McLachlin	Evening session to introduce new trustees and teachers to technical assistance programme.
June 1982	Timiskaming Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Sam McKeown Kim Shearer	Day and one-half workshop on Relationships by Objectives.
Nov. 1982	Lincoln Bd. of Education	Trustees and Administrators	Sam McKeown	Two-day workshop on Relationships by Objectives, familiarize new trustees with the school system operation.
Feb. 1983	East Parry Sound Bd. of Education	Internal facilitators 1 Trustee 5 Elementary teachers 1 Secondary teacher	Kim Shearer	Three-day workshop to develop internal facilitators.
Feb. 1983	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Kim Shearer Craig Crawford	Three-day workshop on communications, problem-solving conflict management, group development, and relationship focusing.
May 1983	East Parry Sound Bd. of Education	Internal facilitators 1 Trustee 5 Elementary Teachers 1 Secondary Teacher 3 ERC Staff	Kim Shearer Jim Breckenridge	Learning reinforcement for internal facilitators.

GRIEVANCE MEDIATION APPOINTMENTS 1979-83

DATE	PARTIES	GRIEVANCE MEDIATOR	NATURE OF ASSISTANCE
June, 1980	Provincial Schools Authority and Federation of Provincial Schools Authority Teachers	Maureen Saultman	Issue Resolved
June, 1981	Nipissing Board of Education and the Branch Affiliates of F.W.T.A.O. and O.P.S.T.F.	Graeme H. McKechnie	Issue Resolved
March, 1982	Central Algoma Board of Education and the Branch Affiliate of O.S.S.T.F.	Malcolm Stockton	Issue Resolved
May, 1982	Northumberland and Newcastle Board of Education and the Branch Affiliates of F.W.T.A.O. and O.P.S.T.F.	Malcolm Stockton	No Resolution; Issue went to Arbitration
May, 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of the O.S.S.T.F.	David Moore	Issue Resolved

(c) Selection and Training of Third Parties

Section 60(1)(e) of the Act directs the Commission "to select and where necessary, to train persons who may act as mediators, fact finders, arbitrators, and selectors."

(i) Selection

The Commission selects persons from a list of qualified fact finders and mediators to assist in collective negotiations as required. Its roster includes men and women from a variety of occupations including labour/management arbitrators, labour lawyers, academics and former educational administrators and teachers. Each year, the Commission continues to recruit a number of third parties who are bilingual.

Today, individuals who are utilized by the Commission not only must bring strong qualifications to the ERC but also must participate in the Commission's training programs. As well, the Commission now evaluates its third parties and only those individuals whose performance is superior continue to be appointed. The Commission continues to seek individuals whose background, experience and understanding of collective bargaining in education renders them eligible to provide the kind of third party assistance required by the ERC.

(ii) Training

During the reporting year, two training sessions were held for third party neutrals. As in other years, one session was held for fact finders and one for mediators. The Commission continued to recruit new individuals with high qualifications and from a variety of backgrounds: fifteen were academics whose training is in industrial relations, 20 were lawyers specializing in labour law, and five were former school trustees or administrators.

As was the case last year, the workshop on *conventional* mediation explored various styles, techniques and strategies of mediation during a two-day period. The Commission continues, through both recruitment and training, to add to its contingent a group of "intensive" mediators. A U.S. study has confirmed what many labour relations experts believe, viz., "intensive" or "active" mediators are likely to be more effective in facilitating agreements between the parties than mediators who act with low intensity*. The mediation workshop this year, therefore, focused on strategies for intensive mediation.

*"Mediator intensity" refers to a mediator's level of immersion or involvement in the process of dispute resolution. A mediator who acts with low intensity usually focuses on identifying the issues in dispute, probes the problems which lie behind the issues and generally assists the parties to improve their lines of communication. At higher levels, a mediator more actively assists the parties in setting priorities, "packages" issues for discussion and trade-off, and even offers alternative solutions to the dispute. At the highest level of intensity, it is not uncommon for a mediator to use persuasion and other forms of pressure to encourage settlement. See Paul F. Gerhart and John E. Drotning, "A Six State Study of Impasse Procedures in The Public Sector: Final Report". Unpublished study in connection with U.S. Department of Labor Contract No. J-9P-7-0149.

A workshop was also held for new fact finders to acquaint them with the Act, the financial aspects of education in Ontario, the teacher and trustee organizations, and issues often involved in Ontario teacher-board bargaining.

2. Research Services

Research Services gather and provide information to assist all parties in negotiations through numerous publications on salaries and other negotiation issues, and by responding to requests for data (see Tables 2 and 3). They also undertake a broad variety of research tasks for the Commission.

(a) Information

The basic resource for the Commission's information base is the collective agreement. Approximately 200 agreements are analyzed each year by Research Services' staff. (The number of collective agreements *negotiated* annually varies with the number of multi-year agreements.) Information related to salaries, benefits and working conditions is extracted from these agreements and placed in a computerized data bank. During the 1982-83 year, Research Services processed more than 1,000 requests for information.

In cooperation with the Ministry of Education, the Commission continued to receive information regarding school board expenditures for a variety of allowances and benefits which are provided to teaching staff, as well as enrolment and staffing data. These are available to the parties upon request.

The Commission's reference library contains a copy of all collective agreements, public fact finding reports, arbitration awards, final offer selection awards, and ERC determinations. The library may be used by interested individuals.

Activities previously initiated to establish a base of non-teacher economic and labour data were furthered through contacting both neutral and non-neutral organizations to learn of their data resources and availability. Progress in this area remains slow; particularly in regard to data concerning "professionals". Nevertheless, attempts to expand the Commission's materials in this regard continue.

Advancements were also achieved in the in-house data processing capabilities initiated during 1980-81 when a mini-computer was purchased. Although the usual frustrations have been experienced, the initial developmental work is completed. The operational capabilities of the system have been tested and are now functioning.

Beyond the data pertaining to collective agreements, the equipment is being utilized to establish an in-house system related to the negotiation process to assist with record keeping, reporting and appointment functions.

The expanding use of the mini-computer/word processing equipment has in turn led to a need to upgrade it. In order to accommodate the growing amount of data, the requests for data, and the ability to handle capably the ERC's data system in house while at the same time utilizing the word processing function, it became obvious that the mini-computer would have to be equipped with hard disc capabilities. This equipment has been ordered and it is expected that it will be in place and functional in the next reporting year.

Table 2 Number of Requests for Information by Month and Party, 1982-83

	Local Teacher	Local Board	ERC Appointee	Provincial Teacher	Provincial Trustee	Media	Other	Total
1982								
Sept.	6	18	5	4	—	5	19	57
Oct.	6	6	5	6	1	—	14	40
Nov.	4	7	8	2	2	—	12	35
Dec.	4	8	7	1	—	—	5	25
1983								
Jan.	4	9	5	2	1	1	12	34
Feb.	5	10	3	5	3	3	13	42
Mar.	3	11	2	3	3	2	6	30
April	6	7	—	5	—	—	10	28
May	5	7	—	7	—	—	20	39
June	3	11	—	1	2	—	12	29
July	2	5	—	—	2	—	7	16
Aug.	1	3	—	—	—	—	8	12
Total	49	102	35	36	14	11	138	387

Table 3 Number of Requests for Publications, Month and Party, 1982-83

	Local Teacher	Local Board	ERC Appointee	Provincial Teacher	Provincial Trustee	Media	Other	Total
1982								
Sept.	14	16	1	1	—	2	20	54
Oct.	5	6	—	2	—	—	13	26
Nov.	7	8	—	1	—	—	26	42
Dec.	10	5	1	—	—	—	13	29
1983								
Jan.	14	20	—	4	1	1	23	63
Feb.	20	17	1	2	1	—	35	76
Mar.	13	3	2	1	—	—	37	56
April	21	21	—	4	—	—	55	101
May	9	11	1	1	—	—	59	81
June	8	8	—	1	—	—	59	76
July	3	5	—	1	—	—	14	23
Aug.	1	3	—	1	—	—	14	19
Total	125	123	6	19	2	3	368	646

(b) Research

As in previous years, Research Services personnel have prepared a number of publications containing pupil-teacher ratios, insured employee benefits, retirement gratuities, leaves, class size provisions, and compensation statistics. (See Appendix A).

Two staff-researched publications were of major significance this year. The first was an in-depth analysis of the various tactics and strategies used in mediation. The publication, entitled "The Bargaining Process and Mediation" has been sent to the third parties as a training resource.

The second publication deals specifically with the negotiation process outlined by the Act. This study entitled, "Interest Arbitration: An Examination of the Process and Awards under the *School Boards and Teachers Collective Negotiations Act*, 1975-76 to 1981-82" looked at the 51 interest arbitrations which have taken place since 1975, in the education sector. Specifically this study outlines the criteria which various arbitrators have applied in the jurisdictions which have chosen or been legislatively required to use this method of dispute resolution.

Judging by the number of requests the Commission has received for these publications, they have been well received by the parties in the private, public and education sectors.

The ERC funded study of the Sudbury Secondary School strike has been received by the Commission. Professor Derek Wilkinson, of Laurentian University has attempted to measure some of the objective effects of the strike on Sudbury grade 13 students who enrolled in Laurentian University the next year. He concluded that "the two months of lost education in grade 13 did not affect university performance".

The final draft of this report is being prepared and it is expected the report will be published next year.

A second piece of independent research is nearing completion. Dr. Jeffery Gandz, a professor at the School of Business at the University of Western Ontario has studied a cross-section of teacher-board bargaining jurisdictions in the province. His study will attempt to identify and isolate significant factors contributing to the nature of the relationships found in negotiations.

The *Provincial Overview*, is a bi-monthly publication published by the Commission during the school year. It contains negotiation updates from settlements in the elementary, secondary and R.C.S.S. panels. In response to suggestions from the parties, it has been expanded from six to eight pages in order to provide more flexibility

in reporting details of settlement data. It also has been used to report topics related to the bargaining process in education.

The further analysis of the bargaining process in Ontario education in terms of negotiation length, number of third-party appointments, and stages of the Act utilized in the bargaining process, was conducted in the reporting year. This on-going study, initiated three years ago, will produce data which are useful for evaluating the operation of Bill 100 and determining possible changes in ERC dispute resolution policy.

Research Services invited interested trustee, teacher and administration groups across the province to meet and discuss the information resources of the Commission. To date, 5 data workshops have been held, in local areas, and 31 more are scheduled in the fall of the next reporting year. The response from all parties to this request has been significant and clearly indicates the need to inform personnel new to bargaining in the education sector of the Commission's data resources.

A representative of the Commission attended the 25th annual meeting of the Statistics and Research Committee of the Canadian Association of Administrators of Labour Legislation (CAALL). This provided a valuable opportunity to share experiences with and learn from others involved in similar activities across the country. The Commission intends to continue this worthwhile association.

V NEGOTIATIONS 1982-83

1. The Parties

The parties to negotiations are the 2,200 trustees and the 106,000 teachers who represent and work in the approximately 200 school boards in the province. In general terms, there are two kinds of school boards. The Boards of Education (76) are divided into elementary and secondary panels. The Roman Catholic Separate School Boards (48) provide Catholic education in the province. In many cases, these Boards are geographically different from each other. A second difference is illustrated by the fact that the R.C.S.S. Boards do not have a secondary panel. Provincial funding for the R.C.S.S. Boards is provided to grade 10 only. Such Boards offering grades 11, 12 and 13 are actually operating private schools.

Both the trustees and the teachers are organized in a grouping of organizations under a parent body. For the teachers, the parent body is the Ontario Teachers' Federation (OTF). This organization is made up of representatives of:

1. The Federation of Women Teachers' Associations of Ontario (FWTAO);
2. The Ontario Public School Teachers' Federation (OPSTF);*
3. The Ontario Secondary School Teachers' Federation (OSSTF);
4. The Ontario English Catholic Teachers' Association (OECTA);
5. L'Association des enseignants franco-ontariens (AEFO).

Bargaining rights reside with the branch affiliates of the above bodies.

The trustee parent organization is the Ontario School Trustees' Council (OSTC) which is composed of representatives from:

1. The Association of Large School Boards of Ontario (ALSBO);
2. The Ontario Public School Trustees' Association (OPSTA);
3. The Ontario Separate School Trustees' Association (OSSTA);
4. L'Association française des conseils scolaires de l'Ontario (AFCSO);
5. The Northern Ontario Public and Secondary School Trustees' Association (NOPSSTA).

*Changed from Ontario Public School Men Teachers' Federation at annual conference in August, 1982. (OPSMTF).

During 1982-83, approximately 69,980 Ontario teachers negotiated the terms and conditions of their employment. The number of school boards and the branch affiliates, by type, and the number of teachers employed by those boards are summarized in Table 4.

Table 4 School Boards, Branch Affiliates, and Teachers in Ontario 1982-83

Board Classification	Number of Boards	Number of Branch Affiliates				
		FWTAO	OPSTF	OECTA	AEFO	OSSTF
Boards of Education	76*	76	76	—	25	76
Metro. Toronto School Board*	1	1	1	—	—	—
County and District Combined Roman Catholic Separate School Boards	48	—	—	47	40	—
Other Public School Boards	42	4	7	—	—	—
Other Separate School Boards	13	1	1	5	4	—
Secondary School Boards	1	—	—	—	—	1
Boards on Crown Lands, Hospital and Hydro Centres and the Provincial Schools Authority	23	8	8	—	4	2
Total	204	90	93	52	73	79
Number of Teachers	106,046	30,247	14,613	20,420	5,354	35,412

*The Metropolitan Toronto School Board, which operates schools for the trainable retarded, does not operate elementary and secondary schools as such; however, its teachers are members of the elementary school branch affiliates, FWTAO and OPSTF.

2. Renewals under the Act

It should be noted that the number of negotiations during any given year will vary because of the existence of multi-year agreements. That is, not every agreement comes up for renewal every year. The 204 school boards and 387 branch affiliates, referred to in Table 4, conducted 173 sets of negotiations during 1982-83, as indicated in Table 5.

Table 5 Status of Negotiations, 1982-83

Board Classification	Not Subject to Negotiation*	Subject to Negotiation
Boards of Education — Elementary	16	60
Boards of Education — Secondary	17	58**
County and District Combined Roman Catholic Separate School Boards	13	35
Other School Boards	6	20
Total	52	173**

* Concluded a multi-year settlement during a previous year.

**In addition to these situations, one (1) Secondary (Oxford) which had not settled during 1981-82, continued negotiations into the 1982-83 period and the settlement was achieved by the I.R.B.

3. Duration of Agreements

Table 6 provides a breakdown of the duration and termination dates of settlements reached *during* 1982-83.

Table 6 Duration and Termination of Settlements Concluded in 1982-83

Board Classification	Not Settled*	1 Year Aug. 31/83	2 Years Aug. 31/84
Boards of Education — Elementary	—	40	20
Boards of Education —Secondary	10	35	14
County and District Combined Roman Catholic Separate School Boards	1	26	8
Other School Boards	—	18	2
Total	11	119	44

* Based on the assumption that collective agreements are *not* extended by the Inflation Restraint Act.

One of the significant developments over the past four years has been the number of *multi-year* agreements negotiated by the parties. However, with the introduction of the Inflation Restraint Act this trend came to an end — although there were 44 multi-year agreements negotiated during 1982-83. Of significance is the relatively large number of unsettled jurisdictions. Many parties interpreted Section 13 of the Inflation Restraint Act to mean that collective agreements had automatically been renewed, and therefore there was nothing to negotiate. The Commission, as explained in its determination concerning the Durham Bad Faith Bargaining charge, does not agree with this interpretation. As a result it is not clear just what constitutes a settlement. Table 7 presents the number of multi-year agreements reached during each year since the inception of the Act. A clear trend toward multi-year agreements began in the 1978-79 reporting year and continued in 1981-82.

Fewer multi-year agreements were concluded during the reporting year, largely due to the impact of the Inflation Restraint Act. The importance of multi-year agreements cannot be overemphasized. They introduce a measure of stability in teacher-board relationships and bargaining, and generally reduce the number of third party appointments by the ERC.

Table 7 Term of Agreements, 1975-76 to 1982-83

Term of Agreement		1975-76		1976-77		1977-78		1978-79		1979-80		1980-81		1981-82		1982-83	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Elementary: Term: Agreements on File 8 Months	1 Year	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0
		8	10.5	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0
		56	73.7	63	82.9	68	89.5	57	75.0	30	39.5	18	23.7	35	46.1	40	52.6
		8	10.5	1	1.3	6	7.9	13	17.1	33	43.4	25	32.9	15	19.7	20	26.3
		4	5.3	4	5.3	1	1.3	—	0.0	—	0.0	—	0.0	—	0.0	—	—
Secondary: Term: Agreements on File 8 Months	1 Year	—	0.0	8	10.5	1	1.3	6	7.9	13	17.1	33	43.1	26	34.2	16	21.1
		76	100.0	76	100.0	76*	100.0	76	100.0	76	100.0	76	100.0	76	100.0	66**	100.0
		5	6.6	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0
		53	69.7	56	73.7	70	93.3	53	69.7	25	32.9	22	28.9	34	44.7	35	53.0
		10	13.2	3	3.9	1	1.3	22	28.9	29	38.1	23	30.3	17	22.4	14	21.2
R.C.S.S.: Term: Agreements on File 8 Months	1 Year	7	9.2	7	9.2	1	1.3	—	0.0	—	0.0	—	0.0	—	0.0	—	0
		1	1.3	10	13.2	3	4.0	1	1.3	22	28.9	31	40.8	25	32.9	17	25.8
		48	100.0	48	100.0	48	100.0	48	100.0	48	100.0	48	100.0	48	100.0	47***	100.0
		11	22.9	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0
		27	56.3	38	79.2	41	85.4	38	79.2	17	35.4	12	25.0	23	47.9	26	55.3
Total: Term: Agreements on File 8 Months	1 Year	3	6.3	3	4.2	4	8.3	6	12.5	25	52.1	11	22.0	14	29.2	8	17.0
		6	12.5	5	10.4	1	2.1	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0
		1	2.1	3	6.3	2	4.2	4	8.3	6	12.5	25	52.0	11	22.9	13	27.7
		200	100.0	200	100.0	199	100.0	200	100.0	200	100.0	200	100.0	199	100.0	189	100.0
		24	12.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0
Total: Term: Agreements on File 8 Months	1 Year	136	68.0	157	78.5	179	89.9	148	74.0	72	36.0	52	26.5	91	45.8	101	53.5
		21	10.5	6	3.0	11	5.5	41	20.5	87	43.5	59	29.0	46	23.1	42	22.2
		17	8.5	16	8.0	3	1.5	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0
		2	1.0	21	10.5	6	3.0	11	5.5	41	20.5	89	44.0	52	26.1	46	24.3
		—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

*Windsor Secondary did not have a collective agreement in effect during 1977-78.

Not settled for 1982-83: ** Secondary — Bruce, East York, Etobicoke, North York, Ottawa, Red Lake, Renfrew, Scarborough, Sudbury, York City.

*** R.C.S.S. — Welland

4. Persons Appointed to Assist — Mediators

A significant and positive change with respect to third party assistance began in the 1980-81 round. Mediators, or "persons to assist" as they are referred to under section 13 of the Act, can be appointed at any time, either at the direction of the Commission or, with Commission concurrence, at the request of one or both parties. While a mediator may help the parties fashion their own solution to the conflict, labour relations experts suggest that, with the passage of time, the parties in public sector negotiations tend to rely on third parties to an excessive degree.

It is important to note that for the third consecutive year almost three-quarters of the negotiations settled without the involvement of a mediator as compared to less than two-thirds in the 1979-80 negotiating year. As in the previous year, the 1982-83 ratio was one of the lowest since the passage of the Act.

Table 8 Assignment of Mediators, 1982-83

Board Classification	Situations Negotiating 1982-83	No Med.	Med. Only	Med. Pre F.F. Only	Med. Post F.F. Only	Med. Pre/Post F.F.
Boards of Education — Elementary	60	45	2	9	3	1
Boards of Education — Secondary	58	32	5	9	10	2
County and District Combined Roman Catholic Separate School Boards	35	27	5	2	1	—
Other School Boards	20	19	1	—	—	—
Total	173	123	13	20	14	3

The Commission has continued a policy, introduced in 1980-81, which brought about a shift in the *timing* of mediation assistance.

The Matthews Commission suggested that the ERC place some emphasis (albeit with the concurrence of the parties) on mediation assistance *prior* to mandatory fact finding. The feeling is that this would enable the mediator to work with the parties before their positions harden. The ERC concurs with this judgement if local circumstances are appropriate. In this light, the figures in Table 8 are interesting. Because of the hiatus in negotiations just prior to, and immediately following the introduction of, the Inflation Restraint Act, far fewer "pre-fact finding" mediation appointments were made in the reporting year compared to the previous year. Of the fifty mediation appointments during the 1982-83 round, 40% were made prior to fact finding, contrasted with 55% in 1981-82. Table 9 lists the jurisdictions and outcomes where pre-fact finding mediators were appointed in the 1982-83 round. The efficacy of this type of appointment also seemed to be effected by the impending restraint legislation. Much less progress was made in negotiations during the pre-fact finding period than in post bargaining rounds. Because of this, the Commission will re-evaluate this type of approach for future negotiations.

Table 9 Pre-Fact Finding Mediation, 1982-83

Jurisdiction	Mediator	Outcome
Elementary		
Hamilton	Ed Werner	<ul style="list-style-type: none"> — clarification of positions — prioritization of issues — minimal reduction of issues
*Lennox & Addington Metro Toronto (Except Toronto)	David Moore B. Marcotte	<ul style="list-style-type: none"> — isolated main issue — minor reduction of outstanding issues — brought some order to list of outstanding issues
Prescott Russell Sault Ste. Marie Sudbury	Y. Tarte Alan Harries Mac Stockton	<ul style="list-style-type: none"> — clarified issues in dispute — prioritized and clarified issues — clarification of major items — most minor items resolved
*Wentworth Windsor	Gene Deszca Belinda Kirkwood	<ul style="list-style-type: none"> — clarified issues in dispute — significant reduction of issues in dispute — obstacle remains — P.T.R. — money also an issue
Secondary		
Central Algoma	Vic Davis	— little progress
*Haldimand	Mac Stockton	<ul style="list-style-type: none"> — no meetings — Restraints Act — OSSTF reaction
Kirkland Lake	Norm Bernstein	— clarified items in dispute
*Leeds & Grenville	Norm Bernstein	— Settlement
*Lennox & Addington London	David Moore Eric Runacres	<ul style="list-style-type: none"> — to be ratified by Board September 28th — Settlement — ordered and clarified items in dispute (54) — major reduction in number of issues outstanding
Metro Toronto	Norm Bernstein	— prioritized and focus on main issues
Sault St. Marie Sudbury	Mac Stockton Tom Bastedo	<ul style="list-style-type: none"> — clarification of issues and politics — Board waiting for provincial restraints — significant reduction of issues
*Wentworth	Mac Stockton	<ul style="list-style-type: none"> — clarified and prioritized issues — significant reduction in number of issues outstanding
*York Region	Bill Marcotte	<ul style="list-style-type: none"> — parties awaiting fact finding — Settlement
R.C.S.S.		
*Frontenac-Lennox & Addington	Mort Mitchnick	— Settlement
*Fort Francis-Rainy River	Brian Sharples	— Settlement
Halton	Gene Deszca	— Settlement
*Nipissing	Eric Runacres	<ul style="list-style-type: none"> — outstanding issues reduced to two — settlement awaiting initiative of one of parties
*Prescott-Russell	N. Bernstein assisted by H. Finley	— Settlement
Welland	Belinda Kirkwood	<ul style="list-style-type: none"> — reduced to two major issues — staffing and money — issues clarified and prioritized
*York Region	Norm Bernstein	— Settlement
OTHERS		
*Moosonee	Mac Stockton	— Settlement

*Jurisdictions did not proceed to fact finding.

5. Fact Finding

Fact finding affords an opportunity for the parties to clarify and narrow the differences which exist between them in order to reach a settlement when the collective agreement expires. The process becomes mandatory once August 31 has passed (the contract expiry date in all teacher-board collective agreements). Further, it is a necessary procedure under the Act before teachers can take strike action or before a school board can initiate a lock-out. The fact finding process also recognizes the public's right to know the substantive and procedural issues of a dispute as well as each party's position prior to any possible interruption to the normal school program.

The Commission may appoint a fact finder at any time during negotiations either upon the request of one or both parties or if the Commission deems that the parties are at an impasse and would benefit from such assistance. The fact finder, a third party neutral, investigates the particular local situation and then files a written report with the Commission. A time limit of thirty days is established in the Act for the fact finder to meet with the parties, examine their written submissions, listen to oral arguments, write the report and submit it to the Commission. The Commission, in turn, immediately delivers the report to the parties.

The report must set out those matters upon which the parties have agreed as well as those upon which they have not agreed. A fact finder may make recommendations regarding any matter which he or she feels is relevant and on any of the items in dispute. The fact finder's recommendations, while not binding upon the parties, often narrow their differences, or are accepted by the parties in whole or in part.

Once the parties receive the report, they have a 15-day period in which to reach a settlement before the report is made public. If an agreement is not negotiated during this time, the report must be made public by the Commission. Should the parties reach settlement at any time during fact finding, the process is automatically terminated.

It is clear from experience in the first seven years since the passage of the Act that fact finding has the potential to assist and, in many cases, actually has assisted the parties in reaching negotiated settlements. To date, the Commission and the parties have generally found it to be a useful process which has worked reasonably well. At the same time, there were observations made before the Matthews Commission that not only were negotiations far too long but also that in some cases fact finding had contributed to the delay. There were also submissions that fact finding in some instances was ineffective and perhaps over-utilized by some of the parties.

Under any labour legislation (including Bill 100), there is a very real danger that a process such as fact finding will be ignored or misused by the parties, thereby weakening the philosophical thrust of the Act

and undermining its effectiveness. As a consequence, the Commission has encouraged the parties to utilize fact finding only if absolutely necessary. The preference, wherever possible, is to settle prior to the point when, under the Act, the Commission must appoint a fact finder. Second, the Commission has attempted to strengthen the fact finding process by trying to convey to the parties and to its third party neutrals that if a settlement cannot be reached without fact finding, the ensuing process should be one out of which a meaningful fact finder's report will emerge. This report would clearly and concisely address the issues in dispute and, if at all possible, present to the parties at least the broad outlines of a settlement. Finally, during the past few years, the Commission has recruited and appointed individuals with extremely high qualifications and experience in labour-management and/or teacher-board relations; individuals who also have the expertise to write outstanding and effective fact finding reports.

A provincial review of fact finding for the 1982-83 agreement year is shown in Table 10. Virtually all fact finder appointments were made after the expiration of the collective agreement. Of the 173 sets of negotiations during the 1982-83 agreement year, 62 (36%) required fact finding assistance, compared to 50 appointments out of 168 sets of negotiations (30%) in the previous year.

Finally, a number of disputes are resolved prior to the writing and/or release of the report to the public. Table 10 reveals that, in 84% of the cases where appointments were made, reports were written and released to the parties. The parties came to a negotiated settlement immediately after receiving the fact finder's report and prior to the report being made public in 8% of the cases.

Table 10 Fact Finder Appointments, Reports Released to Parties and Reports Made Public, 1982-83

Board Classification	Fact Finder Appointments	Reports Released To Parties	Reports Made Public
Boards of Education — Elementary	23	17	16
Boards of Education — Secondary	33	31	29
County and District Combined Roman Catholic Separate School Boards	4	3	2
Other School Boards	2	1	1
Total	62	52	48

6. Strikes, Lock-Outs and School Closings

Out of the 173 sets of negotiations referred to in Table 5, only one experienced teacher sanctions. There was a strike by secondary school teachers in Oxford County. There, the 337 teachers withdrew their services on September 21, 1982 and worked-to-rule from September 22 to September 27, 1982.

Details of this sanction are provided in Table 11. A complete record of sanctions since the passage of the Act is included in Appendix B.

Table 11 Strikes, Lock-outs and Closing of Schools, September 1, 1982 to August 31, 1983					
School Board	Number of Schools	Number of Teachers	Number of Students Affected	Type of Sanction	Duration of Sanction
Oxford County Secondary	7	337.3	5,404.1	Full withdrawal of Services	Sept. 21/82
				Work-to-rule (5 instructional days)	Sept. 22-27/82
					Settled under Provisions of Inflation Restraint Act

7. Voluntary Binding Arbitration/Final Offer Selection

At any time during negotiations, the parties can mutually agree to choose one of two options of third party resolution: voluntary binding arbitration or final offer selection. If a negotiated settlement is reached at any time during these procedures, the process is automatically terminated. Neither option of third-party resolution was utilized by the parties during the reporting year.

Table 12 Agreements Reached by Voluntary Binding Arbitration or Final Offer Selection, 1982-83

Board Classification	Agreements Reached by Voluntary Binding Arbitration	Agreements Reached by Final Offer Selection
Boards of Education — Elementary	—	—
Boards of Education — Secondary	0	—
County and District Combined Roman Catholic Separate School Boards	0	—
Other School Boards	—	—
Total	0	0

(a) Voluntary Binding Arbitration

Under the voluntary binding arbitration procedure, the parties may refer all matters remaining in dispute to either an arbitrator or a board of arbitration. Within 7 days of the appointment of the arbitrator or chairman of the arbitration board each party must submit to the other party and to the arbitrator/chairman, written notice of all matters agreed upon during negotiations and all matters remaining in dispute. The arbitrator or board of arbitration is responsible for determining procedures which give both parties full opportunity to present their evidence and make their submissions.

Within 60 days of the appointment of the arbitrator/chairman, or such longer period of time as the two parties may agree to, the arbitrator or board of arbitration must provide the parties with a written report of his/its decision. The decision of the arbitrator or board of arbitration is final and binding and the parties are required, within 30 days following receipt, to incorporate within a signed agreement the matters agreed to in negotiations and the decision rendered through arbitration.

(b) Final Offer Selection

Under this resolution procedure, each party's final position concerning the items remaining in dispute, together with any supporting evidence, is presented to a selector and the other party within 15 days of appointment of the selector. The parties may then provide written responses to the other party's position and the selector may hold a hearing.

Within 15 days of the hearing (or notice from the parties to dispense with the hearing), the selector must choose one party's final offer in its entirety. This offer is then incorporated into an agreement which also includes those items agreed to by the parties during negotiations.

8. Grievance Arbitration

Grievance procedure clauses in some collective agreements specify that the Commission be asked to appoint a single arbitrator or chairman of an arbitration board to resolve a ***grievance*** as the final and binding step of the procedure.

During 1982-83, the Commission made 3 such appointments, two were chairmen of arbitration boards, and one was a single arbitrator. The Commission made 3 appointments the previous year, all of which were for chairmen of arbitration boards.

Table 13 Appointments Concerning Grievance Arbitration, 1982-83

Board Classification	Number of Appointments By ERC	Nature of Appointments
Boards of Education — Elementary	0	
Boards of Education — Secondary	0	
County and District Combined Roman Catholic Separate School Boards	3	2 Chairmen 1 Single Arbitrator
Other School Boards	—	—
Total	3	

9. Supervised Votes: Last Offer, Strike and Ratification

Prior to any strike activity, the teachers must first request (in writing) the Board's last offer concerning all matters agreed upon and all matters remaining in dispute. A secret ballot vote on the board's last offer must then be conducted under the Commission's supervision. If the teachers reject this offer, a second secret ballot vote to determine whether the teachers favour a strike may then be held, again under the supervision of the Commission.

As indicated in Table 14, during 1982-83 the Commission was called upon to supervise 4 votes by teachers on a school board's last offer and one vote on strike action. The Commission did not supervise any ratification votes on agreements made after the termination of a strike. Table 14 also includes information on the number of last offer and strike votes supervised by the ERC since the inception of the Act.

Table 14 Supervised Board's Last Offer, Strike and Ratification Votes, 1975-76 to 1982-83

Vote	1975-76	1976-77	1977-78	1978-79	1979-80	1980-81	1981-82	1982-83
Board's Last Offer Votes								
Elementary	—	—	2	1	1	—	—	—
Secondary	15	5	8	9	12	1	7 ¹	4
R.C.S.S.	—	5	5	3	12	3	5 ⁴	—
Other	—	—	—	1	1	1	—	—
Total	15	10	15	14	26	5	12	4
Strike Votes								
Elementary	—	—	1	1	1	—	—	—
Secondary	15	4	7	4	9	1	5 ^{1,2}	1
R.C.S.S.	—	1	4	2	7	2	5 ⁴	—
Other	—	—	—	1	1	—	—	—
Total	15	5	12	8	18	3	10	1
Ratification Votes								
Elementary	—	—	—	—	2	—	—	—
Secondary	—	1	5	2	4	2	3 ³	—
R.C.S.S.	—	—	1	—	2	1	2 ⁴	—
Other	—	—	—	—	—	—	—	—
Total	—	1	6	2	8	3	5	—

Note: Boards of Education within Metropolitan Toronto counted individually.

¹Includes separate votes conducted by O.S.S.T.F. and A.E.F.O. in Simcoe.

²Includes vote taken in Northumberland and Newcastle, but not counted as Branch Affiliate, in supervised vote, voted to accept the last offer received from the school board.

³Includes two (2) votes in West Parry Sound as first vote resulted in rejection.

⁴Includes separate votes conducted by O.E.C.T.A. and A.E.F.O. in Carleton R.C.S.S.

10. Determination of Good Faith Bargaining

Twelve complaints of failure to bargain in good faith were filed with the Commission during 1982-83 and four have been resolved as indicated in Table 15. The remaining charges stem from the conflicting interpretation of Bill 179 and its effect on Bill 100. Therefore, hearings

with respect to these charges will not be held until the judicial review of the Commission's jurisdiction in this matter is completed (see next section).

Determination

As a result of the dual interpretation regarding the relationship between Bill 179 and the *School Boards and Teachers Collective Negotiations Act*, a number of Bad Faith Bargaining charges were filed with the Commission under section 60(1)(f) of the Act. The first of these to be heard involved the Durham Board of Education and the Branch Affiliate of the Ontario Secondary School Teachers' Federation, District 17.

Counsel for the Board filed papers with the Commission prior to the hearing challenging the jurisdiction of the Commission to hear this matter. Counsel for the teachers (O.S.S.T.F., District 17) took an opposing view. As a result the fundamental issue was the effect of the Inflation Restraint Act on the Commission's jurisdiction and duties. A hearing was held and a determination on the issue of jurisdiction was made.

In its decision the Commission determined that the Inflation Restraint Act must be viewed as a consistent whole and that its various provisions, particularly sections 13, 14 and 15 must be logically reconciled. This exercise led the Commission to the opinion that the intent of the Inflation Restraint Act was to restrain wages in the public sector within certain limits, and to prohibit sanctions but to allow a continuation of labour management negotiations on non-monetary matters. Therefore, the Commission determined:

... it is our opinion that the Inflation Restraint Act does not terminate the statutory duties imposed on the Commission under section 60 (1)(f) of the *School Boards and Teachers Collective Negotiations Act*.

The determination was appealed by the Durham Board of Education to the Divisional Court of Ontario for judicial review.

On October 24, 1983 the Divisional Court of the Supreme Court of Ontario unanimously dismissed an application by the Durham Board of Education for a judicial review of the decision by the Education Relations Commission regarding its jurisdiction under Section 60 (1) (f) of the *School Boards and Teachers Collective Negotiations Act*.

On November 14, 1983 in the Court of Appeal the Durham Board of Education applied for and was granted leave to appeal this decision.

Table 15 Good Faith Bargaining Charges, 1982-83

Complainant	Respondent	Disposition
Branch Affiliate of O.S.S.T.F.*	Lake Superior Board of Education	Terminated
Branch Affiliate of O.S.S.T.F.	Muskoka Board of Education	Pending
Branch Affiliates of F.W.T.A.O. and O.P.S.T.F.	Lennox & Addington County Board of Education	Resolved
Branch Affiliate of O.S.S.T.F. (2 complaints filed)	Durham Board of Education	Ruling on Pre- liminary objection
Branch Affiliate of O.S.S.T.F.	Dufferin County Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.	Board of Education for the Borough of East York	Pending
Branch Affiliate of O.S.S.T.F. (2 complaints filed)	Bruce County Board of Education	Pending
Branch Affiliate of O.S.S.T.F.	Grey County Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.	Red Lake Board of Education	Pending
Branch Affiliate of O.S.S.T.F.	Kent County Board of Education	Pending

*Initiated during the previous year.

11. Advisements

The sanction situation in Oxford County (see page 40) was not terminated through voluntary negotiations by the parties. The sanction began as a total withdrawal of services of September 21, 1983, the same day the Inflation Restraint Act was given first reading in the Legislature. Sanctions, in the form of a withdrawal of voluntary services continued for six more school days.

On February 16, 1983, the Oxford County Board of Education requested that the Inflation Restraint Board, under section 10 (b)(1) of the Inflation Restraint Act, set compensation rates in the pre-transition year. In a decision which was made on April 27, 1983, the Oxford County Secondary School Teachers were awarded 12 percent, the Principals and Vice-Principals were awarded 10.25 percent. The award stipulated that these rates were to be reduced accordingly if the parties wished to make changes in the benefit package.

APPENDIX A PUBLICATIONS ISSUED DURING 1982-83

Teacher Board Collective Agreements: Individual Summaries

A Provincial Overview

Grievance Arbitration: Summaries of arbitration decisions arising out of differences between the parties under the *School Boards and Teachers Collective Negotiations Act*.

Teacher Placement: Grid Distributions of Ontario Teachers, Total Staff and Enrolment, January 31, 1983.

Monograph Series:

- No. 26: Historical Analysis of Collective Agreements, 1975-76 to 1981-82
- No. 27: Interest Arbitration: An Examination of the Process and Awards under the *School Boards and Teachers Collective Negotiations, Act*, 1975-76 to 1981-82
- No. 28: Compensation Statistics, 1981-82
- No. 29: Leave Provisions: 1975-76, 1978-79, 1981-82
- No. 30: Pupil-Teacher Ratios, 1976-82
- No. 31: Weighted On-Grid Average Salaries, 1981-82 & 1982-83
- No. 32: Insured Benefit Plans and Retirement Gratuities, 1982-83

Clause File Series:

- No. 23: Class Size Provision, 1982-83

Other Publications:

The Bargaining Process and Mediation

APPENDIX B SANCTION RECORD

SANCTION RECORD, 1975-76 to 1982-83

Year/ School Board	Total Sanction Days	Total sanction Days Excluding Work-to-rule
1975-76 Secondary (6):*		
**Central Algoma	35	35
Kent County	66.5	13.5
**Kirkland Lake	44	44
**Metro Toronto	38	38
**Sault Ste. Marie	46	13
**Windsor	27	26
Year Average	42.7	28.2
	(40.6)***	(32.7)***
1976-77 Secondary (2):		
Peel	44	0
Stor., Dundas, Glengarry	24	24
Year Average	34.0	12.0
R.C.S.S. (1):		
Durham	9	9
Year Average	9.0	9.0
1977-78 Secondary (5):		
Essex	16	16
Huron	31	31
Perth	41	0
**Renfrew	73	44
Wentworth	49	16
Year Average	42.0	21.4
R.C.S.S. (1):		
Essex	34	34
Year Average	34.0	34.0
1978-79 Secondary (3):		
Haldimand	36	36
Kirkland Lake	30	26
York County	5	2
Year Average	23.7	21.3
1979-80 Elementary (2):		
Brant	22	22
Peel	14	13
Year Average	18.0	17.5
Secondary (3):		
Lambton	39	39
North York	40	0
**Sudbury	56	56
Year Average	45.0	31.7
R.C.S.S. (2):		
Frontenac	14	14
Nipissing	18	18
Year Average	16.0	16.0
1980-81 Secondary (3):		
Bruce	40	38
Leeds and Grenville	30	30
Norfolk	48	47
Year Average	39.3	38.3
R.C.S.S. (1):		
Essex	9	9
Year Average	9.0	9.0
1981-82 Secondary (2):		
Leeds and Grenville	0	0
West Parry Sound	51	51
Year Average	25.5	25.5
R.C.S.S. (2):		
Carleton (OECTA)	19	19
Carleton (AEFO)	11	11
Year Average	15.0	15.0
1982-83 Secondary (1):		
Oxford County	7	1
Year Average	7.0	1.0

* 11 sanctions if Metro = 6.

** An advisement was made pursuant to section 60(1)(h).

*** Average if Metro = 6.

**APPENDIX C STATEMENT OF EXPENDITURES,
APRIL 1, 1982 – MARCH 31, 1983**

Categories	Budget Allocation \$	Actual Expenditures \$
Salaries and Wages	517,000*	496,129
Employee Benefits	80,600*	71,722
Transportation and Communication	180,400	201,471
Communications	12,000	13,565
Mailing	10,400	20,231
Freight	500	0
Relocation Expenses	0	1,629
Travel-Public Servants	38,000	35,008
Travel-Others	119,500	132,667
Services	485,800*	476,293
Advertising — Agencies	500	0
Advertising — Print, Design	118,500	139,473
Rental Services	8,000	9,518
Data Processing	20,000	33,849
Housekeeping	0	826
Conference Expenses	11,000	18,192
Commissioners	30,000	22,365
Professional Services	255,500	232,620
Building Maintenance	500	0
Equipment Maintenance	1,800	3,585
Special Services	40,000	15,865
Supplies	21,100	17,218
Data Processing		
Equip./Supplies	4,100	3,843
Office Furniture	1,000	2,044
Veh. Components, Fuel	0	2
Office Equipment	1,000	1,093
Clothing, Personnel & Household	0	64
Lab. Equip./Drugs	0	10
Utilities, Other Supplies	0	37
Office Supplies	7,000	5,873
Books/Publications	8,000	3,878
Drafting & Exhibits	0	438
Total	1,284,900*	1,262,833

*Revised — Management Board of Ontario

APPENDIX D SUMMARY OF NEGOTIATIONS, 1982-83

Negotiations conducted in accordance with the Act

Total Number of Negotiations Conducted by Boards and Teachers in Ontario	173
Number of Negotiations Not Requiring Formal Commission Assistance	98
Number of Fact Finders Assigned	62
Number of Situations where Mediator Assigned	50
Settlements by Voluntary Binding Arbitration	0
Settlements by Voluntary Final Offer Selection	0

Note: In some sets of negotiations both a fact finder and a mediator were assigned.

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Annual Report



Ontario

Education Relations Commission

1983-1984



Ontario

**Education
Relations
Commission**

**Telephone (416) 922-7679 111 Avenue Road
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Toronto, Ontario
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To: The Members of the Legislative Assembly
Province of Ontario

**ANNUAL REPORT
1983 - 84**

Dear Members:

We have the honour to present the Ninth Annual Report of the Education Relations Commission, which covers the period from September 1, 1983 to August 31, 1984.

The Education Relations Commission

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OVERVIEW

A variety of factors both internal and external to the Commission has influenced its activities, and the bargaining climate for the parties during the reporting year (1983-84). In particular, collective bargaining in Ontario education has been affected by three recent provincial statutes.

INFLATION RESTRAINT ACT (Bill 179)

The *Inflation Restraint Act*, commonly referred to as Bill 179, expired during the Commission's reporting year. However, all collective agreements were subject to the "control year" conditions of the above Act. This meant they were subject to the 5% compensation cap for the 1983-84 year and also that all agreements expired on August 31, 1984. Therefore, the Commission is faced with a record number of negotiations (229) for the 1984-85 bargaining year. This experience will be reported on in the 1984-85 Annual Report.

During the 1983-84 year, however, negotiations between the parties were almost non-existent. This in spite of the fact that, in a case involving the Durham Board of Education, the Commission decided that negotiations should continue as usual in its jurisdiction on non-compensation issues.

The Durham determination made by the Commission in 1983 (See section II of this report) flowed from conflicting views regarding the relationship of the *School Boards and Teachers Collective Negotiations Act* and the *Inflation Restraint Act*. The Commission's determination was upheld, unanimously, in the Divisional Court of the Supreme Court of Ontario in October, 1983. In May 1984 the case was argued in Court of Appeal, however, and at this time the ruling of that court has not been made public.

The main question of the jurisdictional issue was whether the provisions of the *Inflation Restraint Act* extended the collective agreement and, therefore, discontinued collective negotiations for the 1983-84 period. As noted, the Commission decided that the provisions of the *Inflation Restraint Act* did not automatically extend the collective agreement and therefore that collective bargaining on non-compensation matters should continue.

Notwithstanding the above position, the Commission did not appoint third parties after the Durham Board of Education announced that it would seek a judicial review in the Divisional Court of the Supreme Court of Ontario. The Durham Board of Education was granted leave to appeal the decision, and during the appeal, the Commission did not appoint third parties except in the case of joint requests for mediators. This time span covered most of the 1983-84 bargaining year and as a result there were few third party appointments for the bargaining year.

PUBLIC SECTOR PRICES AND COMPENSATION REVIEW ACT (BILL 111)

Negotiations for the 1984-85 bargaining year began in January and are subject to Bill 111, *An Act to Provide for the Review of Prices and Compensation in the Public Sector and for an orderly Transition to the Resumption of full Collective Bargaining*. Also known as the *Public Sector Prices and Compensation Review Act, 1983*, this legislation, was introduced on November 8, 1983, given third reading on December 13, but is deemed to have come into force on October 1, 1983. The Treasurer, when introducing this legislation stated:

While collective bargaining will be restored, we will ensure the continuation of restraint by placing clear limits on funding for all public sector wage increases during the coming year. Our grants and transfers to municipalities, school boards, universities and other publicly-funded institutions, as well as allocations for our own civil servants, will provide for average compensation increases of up to 5 per cent for a group.

This created a totally new climate for collective bargaining in Ontario's education sector beginning in January 1984.

The return to collective negotiations after a two year hiatus and with informal limits on total compensation for 1984-85 has major implications for the length and character of the bargaining process. The Commission is of the view that bargaining in general will be long and difficult in the forthcoming round. At any rate, during the last half of the reporting year negotiations began in all but one of the approximately 230 jurisdictions covered by the *School Boards and Teachers Collective Negotiations Act*.

BILL 127 AN ACT TO AMEND THE MUNICIPALITY OF METROPOLITAN TORONTO ACT

The Metropolitan Toronto School Board and the six boards of education within the boundaries of Metropolitan Toronto are, for the first time, also subject to *An Act to Amend the Municipality of Metropolitan Toronto Act* (Bill 127). This statute, passed in 1983, requires joint bargaining within the elementary and secondary panels on central table issues defined as salaries, financial benefits and the method used to determine the number of teachers employed by the Board. Negotiations with respect to local concerns are to continue to be carried out between the local boards and the individual branch affiliate. The parties in the secondary panel have been bargaining since January 1984 and at the end of our reporting year (August 1984), it is apparent that they hold diametrically opposite views as to what should be a local matter and what should be negotiated jointly at the central table.

Negotiations which are underway in the elementary panel also appear to be more difficult than usual due to an additional issue at the bargaining table which arises from the Heritage Language program introduced by the Board of Education in the City of Toronto. Thus far, the matter appears to be a highly complex and a very contentious one.

The health of negotiations in Ontario education depends to a considerable extent on the degree to which the parties in Metropolitan Toronto work out their problems at the bargaining table in good faith and on their own. This, too, will be a matter addressed in the 1984-85 Annual Report.

TRAINING (THIRD PARTIES)

Section 61(1)(e) of the Act directs the Commission "to select and where necessary train persons who may act as mediators, fact finders, arbitrators or selectors". During the reporting period the Commission held one training workshop for prospective fact finders. Participants who attended the previous year's workshop and 20 new participants, again mainly lawyers, academics and former educators attended. (For details see page 30.) In the spring of 1984 the Commission has also placed emphasis on "on-the-job training" by appointing more *assistant* fact finders and mediators during the 1984-85 round of negotiations. This will speed up and make more meaningful the training process.

In March 1984, prior to appointments for the 1984-85 round of negotiations, the Commission called its cadre of third parties together for an information session concerning the *Public Sector Prices and Compensation Review Act* (Bill 111).

WORKSHOP (GRIEVANCE MEDIATION)

Over the past year the Commission has promoted the use of grievance mediation with the parties. The Commission also hosted a workshop which was designed to outline to the parties the differences between grievance mediation and arbitration in terms of philosophy and practical application and to promote grievance mediation as an effective system of voluntary dispute resolution. The workshop attracted more than 200 participants from across the province and individuals from both sides of the bargaining table were in attendance. Following the Commission's promotion of grievance mediation there has been a significant increase in the use of this system of dispute resolution (See page 27).

The cost of grievance mediation is considerably lower than the costs of rights arbitration and grievance mediation has the additional advantage of resulting in a settlement jointly determined by the parties.

RELATIONSHIPS BY OBJECTIVES

During the reporting period Relationships By Objectives (RBO) workshops were held with the West Parry Sound Board of Education and its elementary teachers, the Atikokan Board of Education and its elementary and secondary school teachers, the Welland Roman Catholic Separate School Board and its teachers, CFB Petawawa Board of Education and its elementary teachers. The number is significant in that the parties in these situations (who must jointly request this preventive mediation program) made the effort to deal with problems associated with attitudes at a time when provincial legislation, in the short term, made it easier to ignore the issue of collective bargaining relationships (see page 22). The positive impact of this program is

illustrated by the fact that settlements have been recorded prior to the end of the school year (i.e., well before the expiration of the collective agreement) in four of the five jurisdictions which participated in the program.

PERSONNEL CHANGES

J. W. Kilgour (retirement) and Kim Shearer (resignation), Field Service Officers with the Commission since it began operating in 1975, left during the reporting year.

To fill these vacancies the Commission appointed Drena Nilsson, of Windsor and Kathryn Mullin, of Burlington as Field Service Officers.

Ms. Nilsson joins the Commission after an 18-year career as an educator — which included teaching at both the elementary and secondary levels — with the Windsor Board of Education. She holds an M.Ed. in Education Administration and a B.A. from the University of Windsor and a M.A. in German Language and Literature from the University of Waterloo. Ms. Nilsson, a past president of the Windsor Women Teachers' Association, and currently a Governor of the University of Windsor, speaks several languages, including French, fluently.

Ms. Mullin holds a M.B.A. degree from Wilfred Laurier University and a degree in Business Administration from the University of Windsor. Since 1977, she has been in personnel work with the Oxford County Board of Education and Brant County Board of Education. Ms. Mullin was a member of the Personnel and Labour Relations Committee of the Ontario Association of School Board Officials (OASBO).

V. (Bill) Pilotis, who joined the Commission in April of 1983, as Director of Field Services, returned to the Windsor Board of Education as Director of Employee Relations.

Dr. Edward M. Aim, and Mr. Craig A. Crawford, both members of the original Commission staff, were promoted. Dr. Aim, Director of Research Services for the past eight years and now Director of Field Services, holds a B.A. from Acadia and M.B.A. and Ph.D. from the University of Toronto.

Mr. Crawford, previously a Research Specialist, becomes the Director of Research Services. He holds B.A. and M.A. degrees from the University of Waterloo and also has completed the course work for a doctorate at York University. In 1979, Mr. Crawford was seconded to the Matthews Commission which investigated the problems and experiences to that date under the *School Boards and Teachers Collective Negotiations Act*.

Dr. Stephen Hawkins, also joined the Commission during the reporting year. Dr. Hawkins is a computer expert who holds four degrees: B.Sc. (Chemical Engineering), M.A.Sc. (Chemical Engineering), M.A. (Sociology) and Ph.D. (Sociology). The acquisition of Dr. Hawkins to the Research Unit of the Commission will allow the Commission to maintain its high standard of data delivery to the parties while at the same time extending and broadening the research capabilities.

I TEACHER/SCHOOL BOARD BARGAINING IN ONTARIO — A BRIEF HISTORY

On July 18, 1975, legislation granting Ontario teachers the right to bargain collectively and the right-to-strike was enacted in Ontario. Prior to the passage of legislation, which would become known as Bill 100, the Ontario government had proposed legislation which included compulsory arbitration rather than the right-to-strike. In response to the proposed statute (Bill 275), both teacher and trustee organizations, albeit for different reasons, lobbied the Government to include the right-to-strike in the legislation. The right-to-strike became a priority for the teachers because they viewed compulsory arbitration as an ineffective form of dispute resolution. The trustees viewed compulsory arbitration as both an imposition on, and an erosion of, local board autonomy and, therefore, in conflict with the principle of representative government.

Moreover, those who drafted Bill 100 were convinced by events in the education sector as well as other jurisdictions that strike-prohibiting legislation is not always effective. In fact, it was felt that it could have the opposite effect. There was — and is — a feeling by many labour relations experts that legislation prohibiting strikes may expand or magnify employer-employee confrontation. The primary reason for proposing Bill 100 was to introduce to the province some stability and order in teacher/board bargaining, and against this background the right-to-strike was included in the legislation.

The need for legislation regarding teacher-board negotiations was obvious in the early 70's. Teachers were demanding the right to collectively bargain such issues as working conditions, grievance procedures, and financial matters. Some trustees viewed the collective bargaining process as an infringement of management rights. The net result, in the absence of legislation, was that bargaining took place in a vacuum and that relationships between trustees and teachers were deteriorating both on an individual and organizational basis.

The School Boards and Teachers Collective Negotiations Act, 1975, brought order to this confusion by providing ground rules for collective bargaining. Although the most publicized feature of the Act was the right-to-strike, realistic alternatives such as voluntary arbitration or final offer selection were provided at each step in the bargaining process. Events leading to a legal strike or lock-out under the Act were regulated. For example, a strike or lock-out under the Act is not legal until:

- a) A fact finder has met with the parties and his/her report has been made public; and
- b) A 30-day cooling-off period takes place after the fact finder's report is submitted to the parties; and
- c) The teachers have voted — by secret ballot in a supervised vote — on the last offer of the school board; and
- d) The teachers have voted — by secret ballot in a supervised vote — to take strike action.

Other features of the Act were also significant. Negotiations take place at the county board level between the local teachers' federation(s) and the school board. There are separate negotiations in the elementary and secondary panels of each board. The scope of negotiations is open, i.e., all matters are negotiable. Each collective agreement is deemed to contain a procedure for binding settlement of disputes arising out of administration of the agreement if such a procedure has not been negotiated locally, and a strike or a lock-out is illegal during the term of the collective agreement.

Finally, the Act provided for a five-person commission — The Education Relations Commission — to monitor and assist all local negotiations between teachers and school boards and to administer the Act. The Commission was given seven specific functions under Section 60 of the Act which are outlined below.

1. Monitoring all negotiations;
2. Collecting and providing data to all parties in collective negotiations;
3. Assisting the parties in their collective negotiations;
4. Training third party neutrals;
5. Adjudicating good faith bargaining charges;
6. Supervising last-offer, strike and ratification votes;
7. Advising the Lieutenant Governor in Council concerning jeopardy to students' courses of study in the event of a strike and/or lock-out.

Four years after the passage of Bill 100, the Minister of Education announced in the Legislature the establishment of a Commission to review the collective negotiations process between teachers and school boards. This Commission — referred to as the Matthews Commission — chaired by Dr. B.C. Matthews, then President of the University of Waterloo, submitted its report to the Minister of Education, in June of 1980. Based on the experience during the first five years of Bill 100, the Matthews Commission proposed a small but nevertheless significant set of recommendations to change the Act.

Redundant sections of the Act were removed in 1981 during a review of legislation by the Provincial Government. As well, the name of the Act was changed to the *School Boards and Teachers Collective Negotiations Act, Revised Statutes of Ontario, 1980, Chapter 464*.

II INFLATION RESTRAINT ACT

Teacher-Board negotiations were significantly altered when *An Act respecting the Restraint of Compensation in the Public Sector of Ontario and Monitoring of Inflationary Conditions in the Economy of the Province* (Bill 179) was introduced. Briefly, Bill 179, introduced in the Legislature on September 21, 1982, limited compensation increases in the public sector to up to 9 per cent in the first year of the program (the “transitional” year) and 5 per cent in the second year (the “control” year). The legislation removed the right to strike or lock-out and also provided for the formation of the Inflation Restraint Board (IRB) to administer the Act, and to monitor wage and price increases in the public and private sectors.

The introduction of Bill 179 had an immediate effect on the progress of teacher/board negotiations. In almost every instance across the province, negotiations were stalled as the parties assessed the implications of the proposed legislation. During the three month period from the time the Bill was introduced until it was proclaimed the bargaining atmosphere was adversely affected as uncertainty about the implications increased. This uncertainty persisted as bargaining slowly resumed.

In this regard, the significant sections of the Act are as follows:

Section 13: which extends the terms and conditions of the collective agreement;

Section 14: which allows the parties to a collective agreement to apply to the IRB with respect to certain disputed matters;

Section 15: which states that parties to a collective agreement which includes a compensation plan that is extended under Section II may, by agreement, amend the terms and conditions...other than compensation rates,...

In many jurisdictions negotiations proceeded normally within the constraints imposed by the provisions of Bill 179. Collective agreements were signed which reflected the 9% ceiling on increases to the grid. In others, negotiations ceased as Boards took the position that section 13 of the legislation extended the collective agreement thus removing the obligation to bargain. This issue ultimately was placed before the Commission in the form of an application by the secondary school teachers employed by the Durham County Board of Education for a determination with respect to good faith bargaining.

Counsel for the Board filed papers with the Commission prior to the hearing challenging the jurisdiction of the Commission to hear this matter, Counsel for the teachers (O.S.S.T.F., District 17) took an opposing view. As a result, the fundamental issue was the effect of the *Inflation Restraint Act* on the Commission's jurisdiction and duties. A hearing was held and a determination on the issue of jurisdiction was made.

In its decision the Commission determined that the *Inflation Restraint Act* must be viewed as a consistent whole and that its various provisions, particularly sections 13, 14 and 15 must be logically reconciled. This exercise led the Commission to the opinion that the intent of the *Inflation Restraint Act* was to restrain wages in the public sector within certain limits, and to prohibit sanctions but to allow a continuation of normal labour-management negotiations on non-monetary matters. Therefore, the Commission determined:

...it is our opinion that the *Inflation Restraint Act* does not terminate the statutory duties imposed on the Commission under Section 60(1)(f) of the *School Boards and Teachers Collective Negotiations Act*.

The determination was appealed by the Durham Board of Education to the Supreme Court of Ontario for judicial review. On October 24, 1983 the Divisional Court of the Supreme Court of Ontario unanimously dismissed the application of the Durham Board of Education.

On November 14, 1983 in the Court of Appeal the Durham Board of Education applied for and was granted leave to appeal this decision. The case was heard in May 1984 but the decision has not been released within the 1983-84 reporting year.

The dynamics of teacher-board bargaining were further changed with the introduction of *An Act to Provide for the Review of Prices and Compensation in the Public Sector and for an Orderly Transition of the Resumption of Full Collective Bargaining* (Bill 111). The Act provides for the return to normal forms of dispute resolution but at the same time changes the parameters of collective bargaining. The Treasurer, in introducing the legislation, indicated the province would limit funding for all public sector compensation increases to provide an average increase of 5 percent. Criteria for increases referred to in the Act were published in *The Ontario Gazette* and range from zero to five percent. This, plus the Treasurer's statement concerning the 5 percent increase in transfer payments, indicates the narrow financial boundaries available to the parties in public sector negotiations for the 1984-85 bargaining year.

The *Inflation Restraint Board* established under the *Inflation Restraint Act* in 1982, had its mandate extended and its duties changed somewhat under the new act. The Board no longer has the power to roll back settlements. However, it does have the duty to assess changes in public sector settlements and report its findings to the Treasurer.

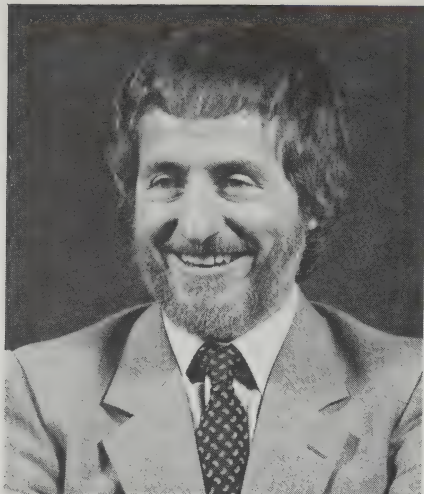
III THE COMMISSION — MEMBERS AND ORGANIZATION STRUCTURE

The Education Relations Commission is composed of five members appointed by the Lieutenant Governor in Council. The term of appointment may range from one to three years and each member of the Commission is eligible for reappointment upon the expiration of the term. Dr. Bryan Downie was first appointed Chairman of the Commission on November 1, 1979 and was reappointed for a second term on October 31, 1982. T. Gary O'Neill was appointed Vice-Chairman on December 22, 1982. Louise D. Binder was appointed a Commissioner in February of 1983, Donald S. Felker in February of 1983 and Harvey H. Nightingale in October of 1982. A biographical sketch of each of the Commissioners is contained on pages 12 & 13.

The Commission has a permanent staff of 16 individuals. In order to oversee bargaining in the more than 230 sets of negotiations which fall under its jurisdiction, the Commission must rely on external human resources. Therefore, in addition to its permanent staff, the Commission utilizes a cadre of more than seventy individuals who are appointed on a contractual basis as third party neutrals. This arrangement has allowed the Commission to attract and continue to appoint some of the most able third parties in the province.

All appointments and all major decisions and determinations are made by the Commission per se. The day-to-day operations of the Commission, however, are managed by a Chief Executive Officer. The operations of the ERC are divided into two major functions — Field Services and Research Services. (An organizational chart is provided on page 15.) Briefly, Field Services monitors negotiation activity at the local level, while Research Services provides data to all parties in negotiations.

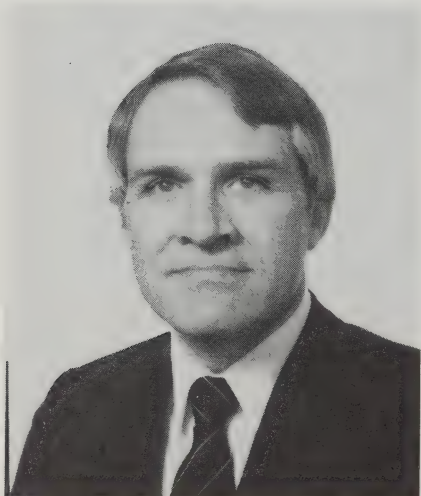
The small size and the vast experience of its permanent staff, combined with the high calibre of its part-time people, has allowed the Commission to quickly and effectively respond to the needs of the parties and the public.



Chairman —

BRYAN M. DOWNIE, B.A. (Concordia, Minnesota), M.B.A. (University of Chicago), Ph.D. (University of Chicago).

Dr. Downie, (Professor, Industrial Relations and Public Policy, Queen's University) has served as a fact finder, mediator, and interest arbitrator. He has published extensively in the area of labour relations and his book, *Collective Bargaining and Conflict Resolution in Education* examines the activities and policies of the Education Relations Commission during its formative years. He is Canadian Director and a Board member of the Society of Professionals in Dispute Resolution, an association of third party neutrals based in Washington, D.C. and is currently President of the Canadian Industrial Relations Association and a member of the Board of Directors of the Social Science Federation of Canada.



Vice-Chairman —

T. GARY O'NEILL, B.A. Sc. (University of Toronto), M.Eng. (Carleton), LL.B. (University of Ottawa)

Mr. O'Neill is a member of an Ottawa law firm who is knowledgeable in both dispute resolution and the issues in the education sector of Ontario. Since 1977, Mr. O'Neill has served as a third-party on numerous occasions.



Commissioner —

HARVEY M. NIGHTINGALE, B.A. (University of Western Ontario), M.Ed. (University of Toronto), M.A. (York University).

Mr. Nightingale served as Director of Economic and Legislative Services for the Ontario Trustees' Council from 1973 to 1981. In this position he was responsible for both developing and articulating the trustees' position on various educational issues, including collective bargaining and the *School Boards and Teachers Collective Negotiations Act*.

Mr. Nightingale is Executive Director of the Ontario Nursing Home Association.

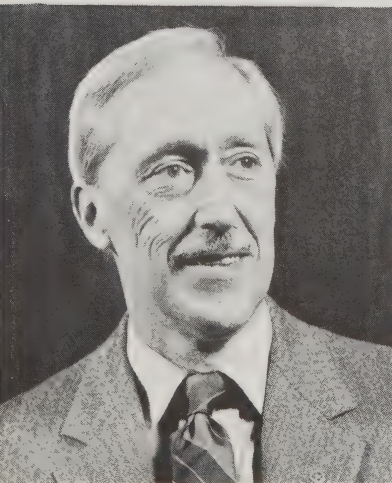


Commissioner —

LOUISE D. BINDER, B.A. (University of Toronto), LL.B. (Queen's University).

Miss Binder is Co-ordinator of Labour Relations with Gulf Canada Products Limited. Following graduation from law school she practised labour law for management with a Toronto law firm. Since 1977, she has been in private sector Employee Relations.

Miss Binder is also a member of the Ontario Public Service Labour Relations Tribunal.



Commissioner —

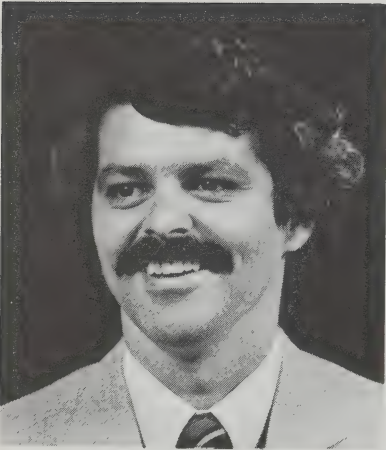
DONALD S. FELKER, B.A. (University of Ottawa), M.Ed. (University of Toronto) Ed.D. (University of Pennsylvania).

Dr. Felker, a self-employed educational consultant, has served as an appointee in both grievance and arbitration boards. He spent thirteen years in the Ontario Public School System as a Teacher, Vice-Principal and Principal and from 1968 to 1973, he served as General Secretary for the Ontario Secondary School Teachers' Federation and is a Life Member of the Ontario Secondary School Teachers' Federation.

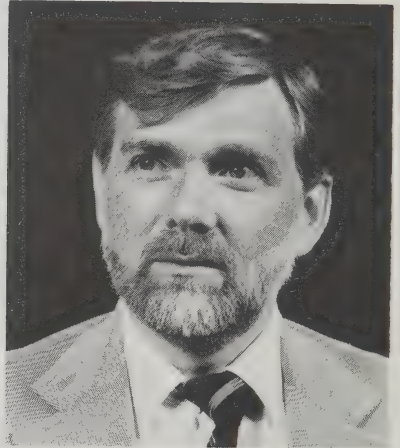
**SENIOR STAFF OF
THE COMMISSION**



ROBERT H. FIELD
Chief Executive Officer

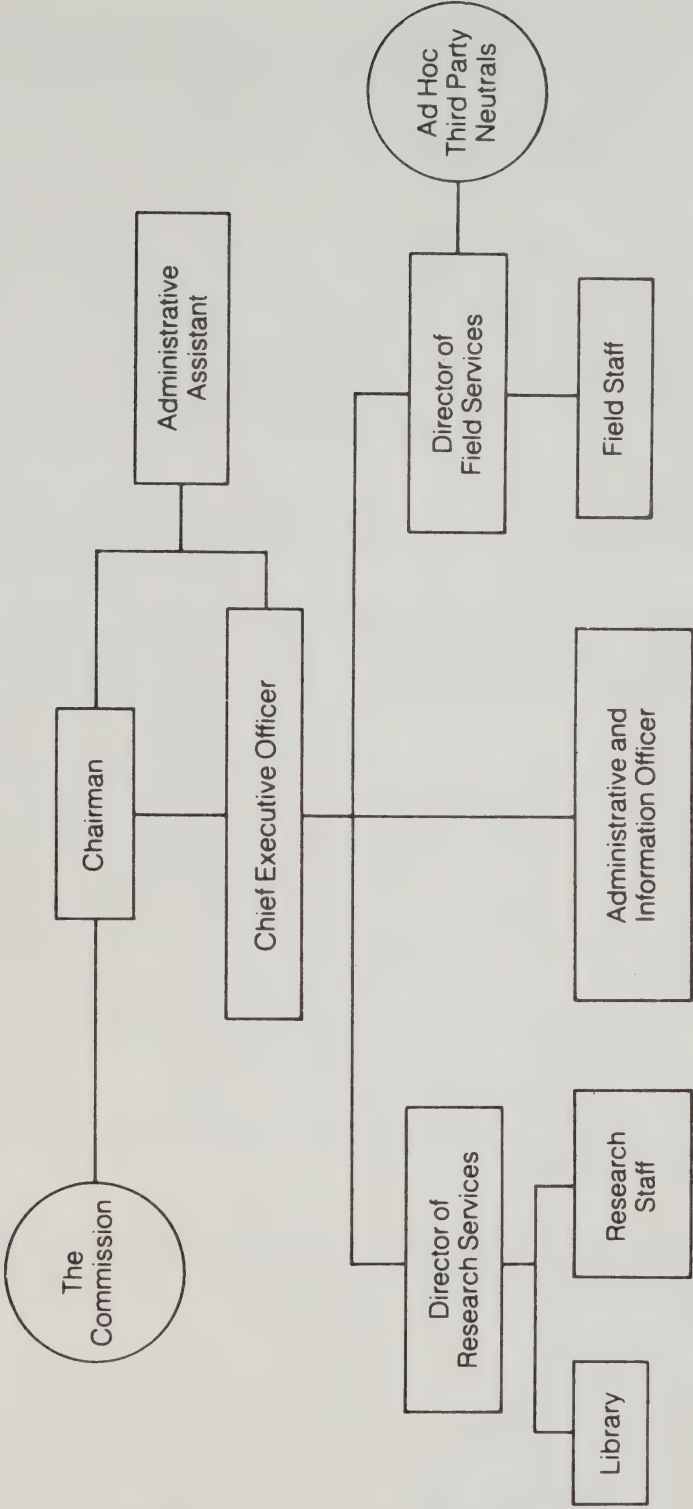


CRAIG A. CRAWFORD
Director of Research Services



EDWARD M. AIM
Director of Field Services

Organization Chart: The Education Relations Commission



IV STAFF ACTIVITIES

1. Field Services

(a) Liaison Activities

The Commission maintains its awareness of negotiations between teachers and school boards through its Field Services staff. The two Field Officers under the direction and supervision of the Director of Field Services are responsible for monitoring the negotiations in all jurisdictions in the Province. This regular contact, by both on-site visits and phone (see Table 1) enables the individual Field Service Officers to gain an understanding of emerging issues in negotiations and to become thoroughly familiar with the parties and important developments at the local level. In turn, the parties become better acquainted with the Commission's representatives and more knowledgeable about the Act and the Commission's policies, procedures and resources. Through this exchange, progress reports are gathered and procedures and requirements under the Act are clarified.

Maintaining an intimate awareness of negotiations between branch affiliates* and school boards is particularly advantageous when appointments of third party neutrals by the Commission become necessary. In making judgments regarding the appropriateness or timing of an appointment and/or the individual to be named as mediator or fact finder in any given area, the Commission has been able to rely on the first-hand information and advice of its Field Services staff.

In the 1980-81 year, Field Services introduced a greater degree of *planning* into the appointment process, and this has been continued and refined during the reporting year. Field Services Staff now formally analyse all upcoming sets of negotiations early in the negotiation year. The analyses include an assessment of the probable degree of difficulty of each situation and the identification of possible troublesome issues and potential barriers or stumbling blocks to settlement. Their analyses also include recommendations on the style, timing and type of third party assistance appropriate to each situation. This material is summarized and evaluated against past historical developments in the particular teacher/school board relationship. Through this system, more effective and economical appointments have emerged. Moreover, more informed decisions concerning third party appointments have resulted.

*A branch affiliate is composed of all the teachers employed by a board who are members of one of the Provincial teachers' federations or associations. A branch affiliate is comparable to a local union.

In an effort to enhance the quality of liaison activities, a three-year plan for field visit activities is being formulated.

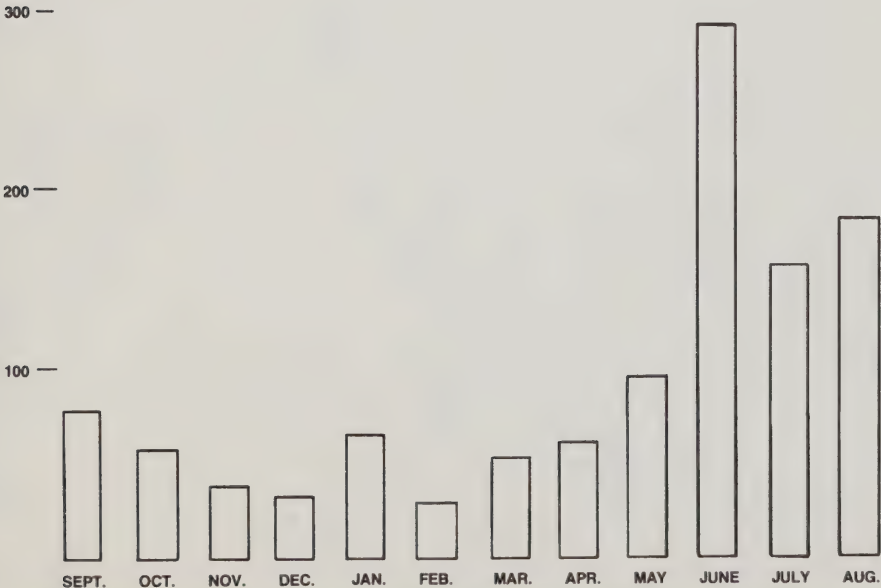
In the liaison activities, emphasis is placed on the Field Service Officers establishing a high profile with the parties and on strengthening the relations between the field officers and the branch affiliates and school boards in order to enable the Commission to provide the best possible service to the parties in their negotiations and teacher-board relations.

Field Services staff members no longer undertake mediation assignments. As recently as four years ago, staff members were assigned occasional mediation tasks for the Commission when such appointments seemed suitable and desirable. A decision was made by the Commission in 1980 to discontinue this practice. The Commission felt, and continues to feel, that direct involvement in negotiations by its staff would jeopardize the monitoring function of Field Services and the neutrality of the Commission. As a consequence, all formal mediation is now undertaken by *ad hoc* third party neutrals. The Commission has developed a highly qualified, competent and totally professional group of third party neutrals upon which it can draw.

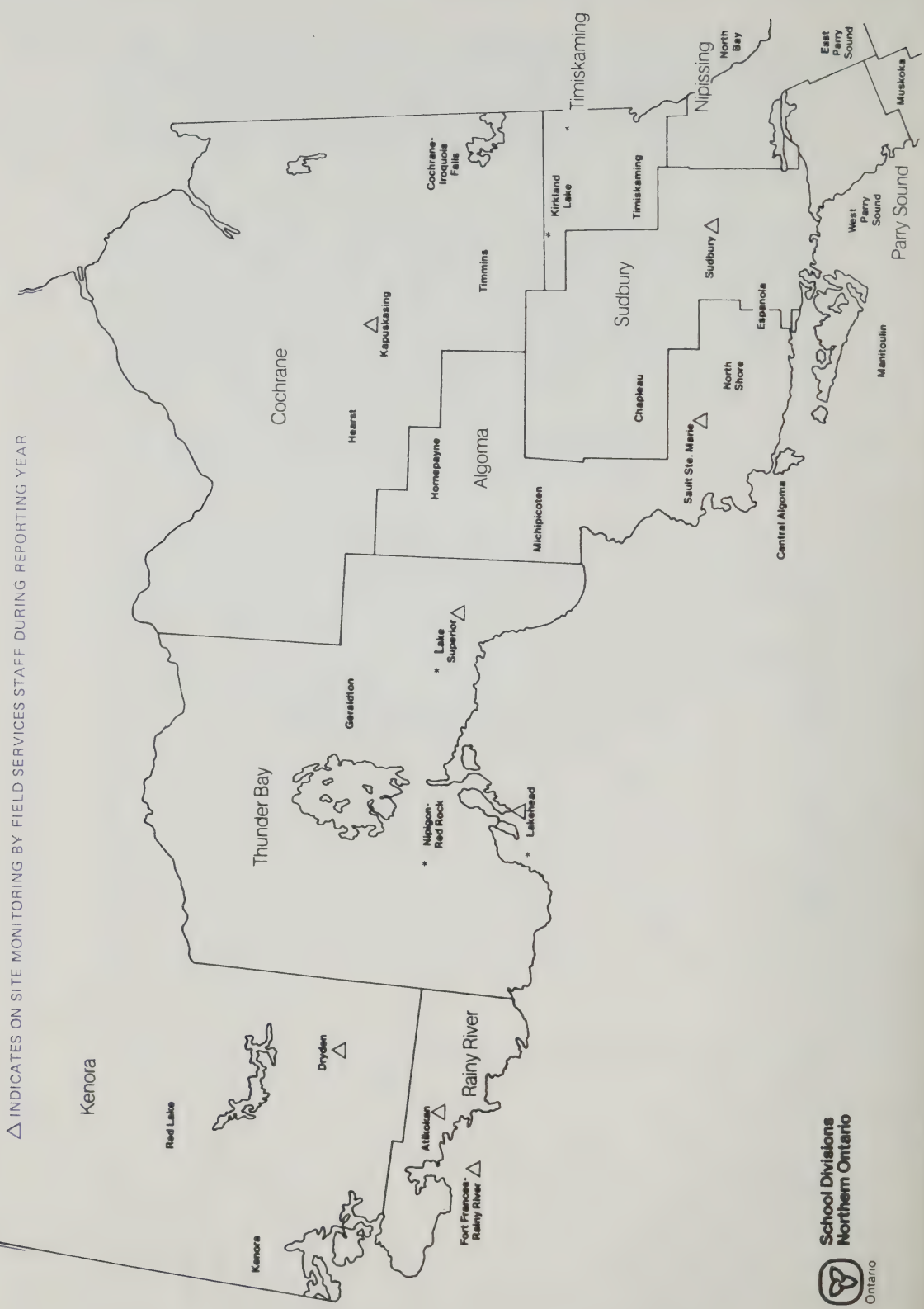
In addition to the monitoring and appointment process, Field Services staff members are intensively involved in both the planning and production of all of the Commission's workshops and *Preventive Mediation* projects (see section (b)(i) below). They are responsible, as well, for the selection, training, evaluation, and professional development of the Commission's neutrals.

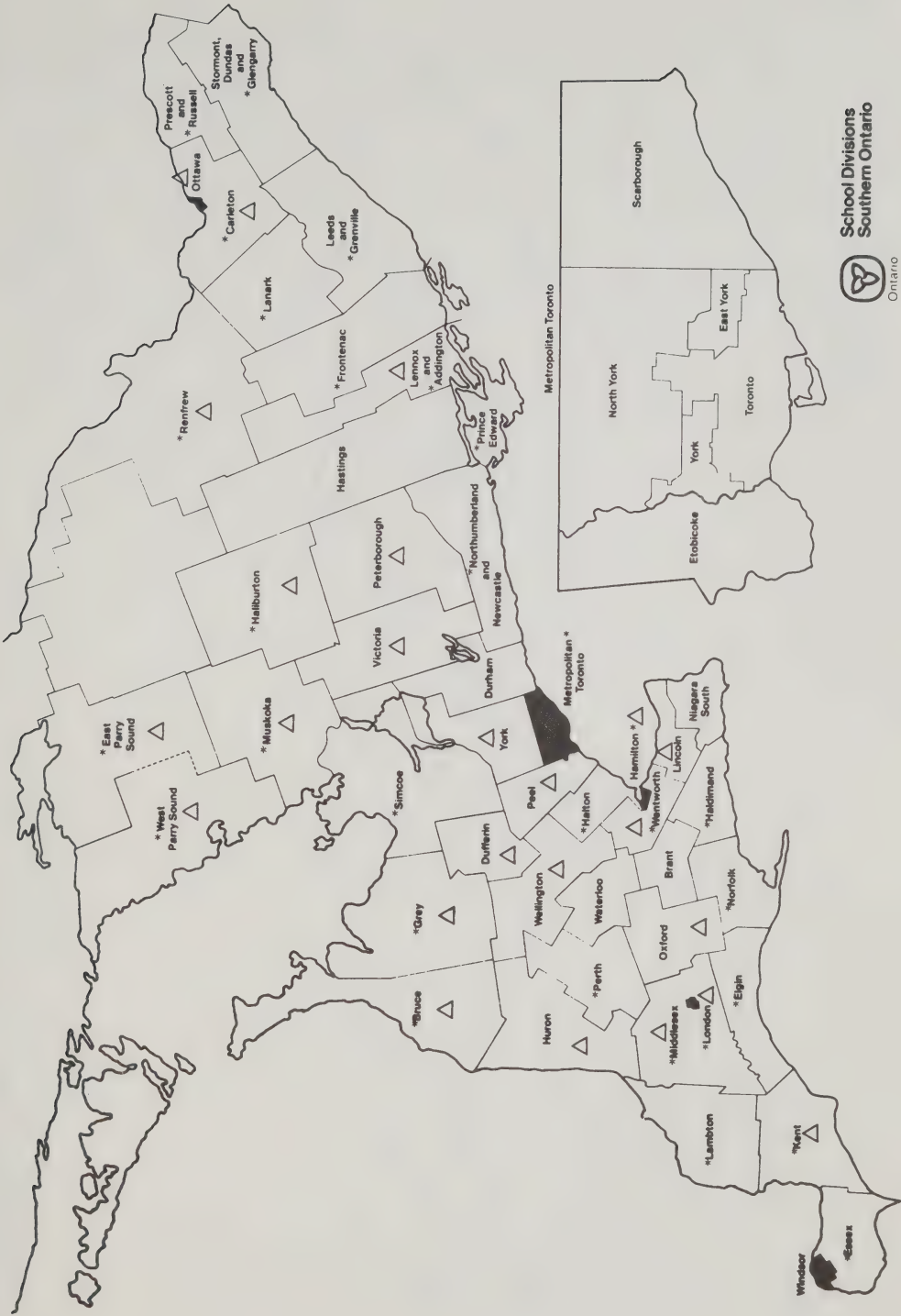
Table 1
TELEPHONE CALLS IN-COMING AND OUT-GOING
FIELD SERVICE MONITORING

400 —



△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR



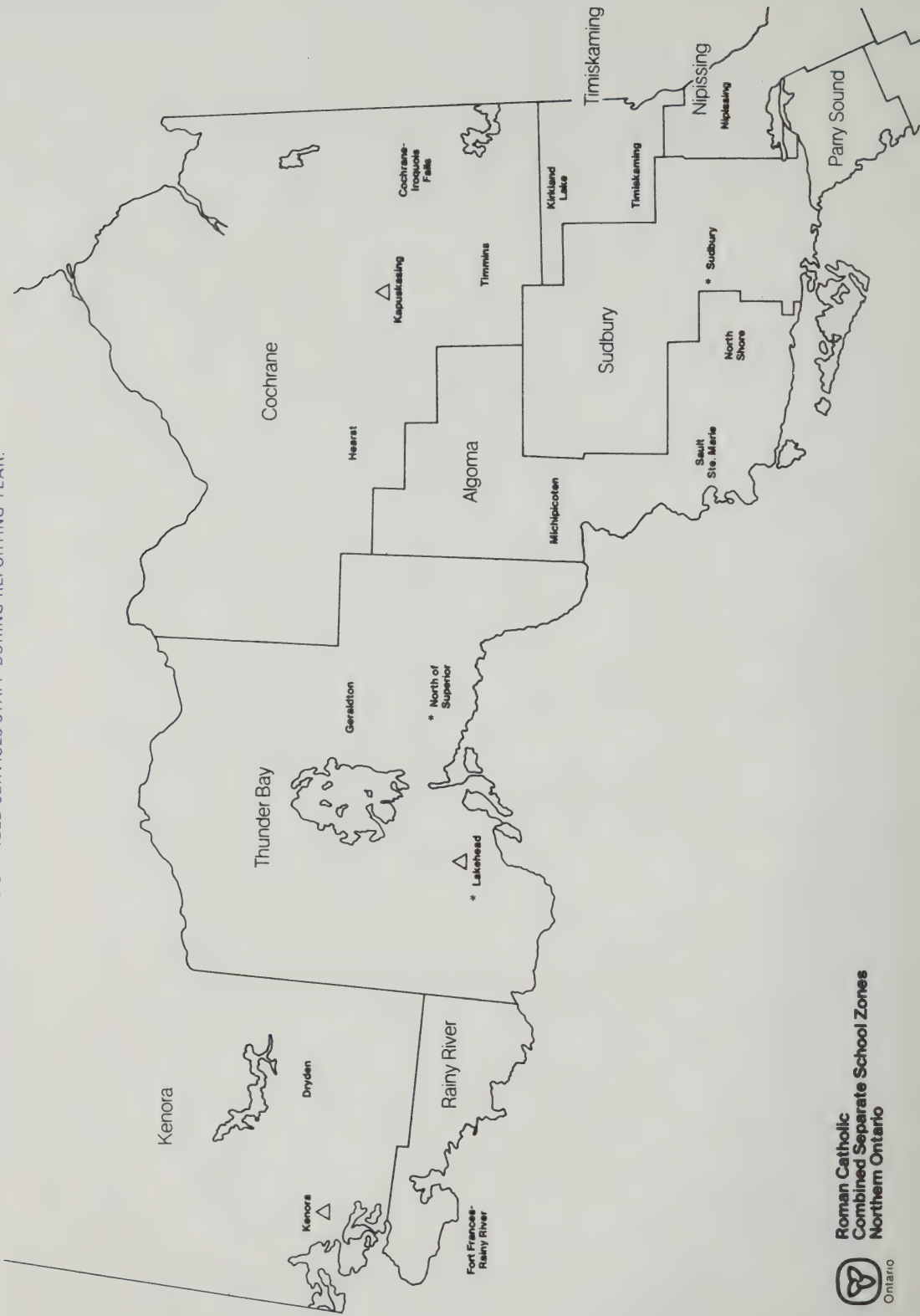


School Divisions
Southern Ontario



Ontario

△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR.





Roman Catholic
Separate School Zones
Southern Ontario



Ontario

(b) Preventive Mediation Programs

(i) Relationships By Objectives and Other Initiatives

This program is administered by the Field Services unit. Its main purpose is to assist the parties in reducing, if not eliminating, the obstacles which prevent the parties from resolving matters of mutual concern. In addition the program attempts to equip the parties with tools which enable them to conduct their negotiations in a more effective and efficient manner within the existing structure of collective bargaining. It must be stressed that the program is not designed to change the present structure of collective bargaining. However, it is designed to enhance it and to make it work for the benefit of both parties. In contrast to conventional mediation, Preventive Mediation is normally conducted outside negotiations.

It should be stressed that Preventive Mediation is offered only after *both* parties in a jurisdiction request ERC involvement.

Although experimentation with Preventive Mediation began as early as 1979-80, an official program was not established until 1980-81. The Commission has now conducted a total of 30 such programs over the last four years involving fifteen jurisdictions.

Although Preventive Mediation is a flexible, individually-tailored program, most parties have requested programs which emphasize relationships by objectives (R.B.O.). Workshops have been conducted both separately and jointly with groups of trustees, administrators, and teachers. All of the Preventive Mediation programs appear to have been successful as judged by follow-up monitoring of the parties' relationships, and their subsequent bargaining experiences.

The R.B.O. programme which involves two numerically equal groups of teachers and trustee/administrators includes six steps.

- I Identification of the issues as seen by each side.
- II Explanation of issues and rationale by each side to the other.
- III Agreement on a list of objectives based on the issues.
- IV Creation of action steps to meet these objectives by groups composed of an equal number of members from each party.
- V Acceptance and/or tailoring of these action steps by teacher and trustee groups separately.
- VI Acceptance of action steps, assigning responsibility and setting time lines by whole group.

This programme was originally developed to take place over three days in a residential setting. The Commission, in meeting the needs of the parties has altered this design to:

- 1) Accommodate the problems encountered in attempting to free key trustees, teachers and administrators for a three-day period during the school year.
- 2) Shorten the programme from three days to two.

To achieve this, the first step in the process is held prior to the residential portion of the workshop. Also, using the information given by the parties in this first session, the Commission staff prepares a list of objectives which the parties accept and/or tailor in Step III. In this way the programme can begin with Step II on Friday evening and finish the sixth Step by noon on Sunday.

The design of the programme allows the participants to develop a separate statement of the issues in the school system. Then the parties work towards joint objectives followed by joint action steps to overcome these issues.

This structure, in combination with the time away from the pressures of the system, facilitates the opening of new communication links and channels as well as the clearing of inappropriate and inaccurate perceptions which lurk in every large organization.

The Commission, in offering this programme, to school boards throughout Ontario, insists that two criteria be met.

1. Both parties indicate that they desire to participate in the programme.
2. The programme will not be offered in any jurisdiction where negotiations are in progress.

During the reporting year the Education Relations Commission conducted five R.B.O.'s in the following jurisdictions:

1. Atikokan Elementary
2. Atikokan Secondary
3. West Parry Sound Elementary
4. Welland R.C.S.S.
5. Petawawa C.F.B. Elementary

The criteria for evaluation will vary from situation to situation depending on the original problems and the extent to which the objectives have been met over the long term.

It can be expected however that a successful R.B.O. will result in improved relations between the parties creating a better climate for negotiations. Though it is important to evaluate the effectiveness of any programme implemented to assist the parties, in the end it will be the parties themselves who will be best able to assess the workshop's effectiveness.

In Atikokan, the Board and both its elementary and secondary teachers reached early settlements. In a letter to the Minister of Education, the Chairman of the Board clearly gave credit to Relationships by Objectives Programme for their successful negotiations due to considerably improved relationships between the parties.

In West Parry Sound the Board and its elementary school teachers have also settled their collective agreement for 1984/85.

As well, a settlement was reached with the Welland R.C.S.S. Board and its teachers shortly after taking part in an R.B.O. workshop.

In Petawawa C.F.B. negotiations have been moving along well. The relationship between the parties is good although a tentative agreement has not yet been reached.

HISTORY OF PREVENTIVE MEDIATION

DATE	JURISDICTION	PARTIES	FACILITATORS	NATURE OF PREVENTIVE MEDIATION
1979	Essex RCSS Bd.	Trustees, Administrators, Teachers	Dr. David Tough	Five meetings to set up ground rules for negotiations.
1979	Essex RCSS Bd.	Trustees, Administrators, Teachers	Bill McCordic	Assisted in developing a staffing formula for September 1980.
1979	Perth County Bd.	Trustees, Administrators, Secondary Teachers	Dr. David Tough	Chaired a committee of trustees, administrators and teachers on staffing and time-tableing in the secondary schools.
1979	Haldimand Bd. of Education	Trustees, Administrators, Secondary Teachers	Sam McKeown	Weekend workshop of Relationships by Objectives
Jan.-Feb., 1980	Wellington County Bd. of Education	Trustees, Administrators, Secondary Teachers	Kim Shearer	Facilitate cooperative bargaining process — 4 sessions totalling 67 hours.
May 1980	Halton Bd. of Education	Trustees and Administrators	Sam McKeown	Day and one-half workshop on Relationships by Objectives
June 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Kim Shearer	Three-day workshop on alternative methods of bargaining: representatives from 6 boards were brought together to discuss pros and cons of various methods.
June 1980	Haldimand Bd. of Education	Trustees, Administrators, Teachers	Sam McKeown	One-day workshop on communications.
Oct. 1980	Lennox & Add. County Bd. of Education	Trustees and Administrators	Sam McKeown	Day and one-half workshop on Relationships by Objectives.
Dec. 1980	East Parry Sound Bd. of Education	Trustees, Administrators Elementary and Secondary Teachers, CUPE	Kim Shearer Sam McKeown Eric Runacres Craig Crawford	Three-day workshop on Communication Skills.
Dec. 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Sam McKeown Eric Runacres	Three-day workshop on Problem Solving Skills.
Jan. 1981	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Sam McKeown Eric Runacres Craig Crawford	Three-day workshop on Contract Management.
Mar. 1981	Lambton County Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Kim Shearer Paul Doucette	Two-day workshop on Relationships by Objectives.

Oct. 1981	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Eric Runacres Jim Breckenridge	Two-day Evaluation workshop
Apr. -May 1981	London Bd. of Education	Administrators	Sam McKeown	Planning new approaches to administration in the 80's (Two one-day sessions).
June 1981	Haldimand Bd. of Education	Trustees, Administrators, Teachers	Sam McKeown	One-day workshop on Communication Skills.
Feb. 1982	East Parry Sound Bd. of Education	Administrators, Elementary and Secondary Teachers	Eric Runacres	One-day workshop to review communication, problem-solving and conflict management skills, establish future goals; develop action steps.
Mar. 1982	Essex RCSS Bd. of Education	Trustees, Administrators, Teachers (OPSTF FWTAO, AEFO)	Eric Runacres	Two-day workshop on communication, problem-solving and conflict management skills.
Apr. 1982	East Parry Sound Bd. of Education	Administrators, Principals of all Elementary and Secondary schools, selected department heads from the Secondary school, and consultants who serve the system	Eric Runacres Don Musella	Three-day workshop of Leadership skill development in communications, problem-solving, decision-making and ways to handle conflict.
June 1982	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Craig Crawford Jim McLachlin	Evening session to introduce new trustees and teachers to technical assistance programme.
June 1982	Timiskaming Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Sam McKeown Kim Shearer	Day and one-half workshop on Relationships by Objectives.
Nov. 1982	Lincoln Bd. of Education	Trustees and Administrators	Sam McKeown	Two-day workshop on Relationships by Objectives, familiarize new trustees with the school system operation.
Feb. 1983	East Parry Sound Bd. of Education	Internal facilitators 1 Trustee, 5 Elementary teachers 1 Secondary teacher	Kim Shearer	Three-day workshop to develop internal facilitators.
Feb. 1983	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Kim Shearer Craig Crawford	Three-day workshop on communications, problem-solving conflict management, group development, and relationship focusing.
May 1983	East Parry Sound Bd. of Education	Internal facilitators 1 Trustee 5 Elementary Teachers 1 Secondary Teacher 3 ERC Staff	Kim Shearer Jim Breckenridge	Learning reinforcement for internal facilitators.

(ii) Grievance Mediation

This program is designed to assist the parties in resolving differences between them which arise from the interpretation, application, administration or alleged contravention of the collective agreement. The use of this procedure does not preclude the parties from proceeding to arbitration if the matter is not resolved through mediation.

One purpose of grievance mediation is to alleviate the build up of negative attitudes which develop within a system because of unresolved grievances. Such grievances often become issues in negotiations. Moreover, grievance mediation is a method of solving disputes as close to the source and as quickly as possible. Lastly, grievance mediation is much less expensive than arbitration.

The Commission began to experiment with grievance mediation in 1979-80. Meetings were held with the provincial teacher federations and trustees associations to introduce the concept, and explain some of its advantages.

A training session for grievance mediators was held in 1980-81. Eight mediators from across the province attended a two-day workshop which was designed to acquaint them with the arbitral jurisprudence developing in Ontario education and with the unique aspects of the grievance mediation process. The purpose was to develop a group of experts from which the Commission can appoint as the need arises.

In February 1984, the Commission hosted a workshop on grievance mediation. Originally designed for forty participants, the aim of the workshop was to explain the techniques and procedures involved in Grievance Mediation and compare this process in terms of cost, philosophy and practical aspect to Grievance Arbitration. Over 200 people attended the workshop. Those attending covered the full spectrum of the education sector — teachers, trustees, administrators and board's legal counsel.

From the Commission's point of view, the number of people attending the workshop and the number of grievance mediation appointments during the year indicated some change of attitude toward the grievance process by the parties. During the reporting year, 14 grievance mediators were appointed, compared to five for the previous three years.

GRIEVANCE MEDIATION APPOINTMENTS, 1979-84

DATE	PARTIES	GRIEVANCE MEDIATOR	NATURE OF ASSISTANCE
June, 1980	Provincial Schools Authority and Federation of Provincial Schools Authority Teachers	Maureen Saultman	Issue Resolved
June, 1981	Nipissing Board of Education and the Branch Affiliates of F.W.T.A.O. and O.P.S.T.F.	Graeme H. McKechnie	Issue Resolved
March, 1982	Central Algoma Board of Education and the Branch Affiliate of O.S.S.T.F.	Malcolm Stockton	Issue Resolved
May, 1982	Northumberland and Newcastle Board of Education and the Branch Affiliates of F.W.T.A.O. and O.P.S.T.F.	Malcolm Stockton	No Resolution; Issue went to Arbitration
May, 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of the O.S.S.T.F.	David Moore	Issue Resolved
Sept., 1983	York Region R.C.S.S. Board and the Branch Affiliate of OECTA	Graeme H. McKechnie	No Resolution; Issue went to Arbitration
Sept., 1983	Victoria Board of Education and the Branch Affiliate of OSSTF	Maureen Saltman	Issue Resolved; Rejected Dec. 8; Issue went to Arbitration
Sept., 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of AEFO	Michel Picher; assisted by Helen Finley	Issue Resolved; but Rejected by Board October 3, 1984

Oct., 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of OSSTF	Frank A. Addario	Seven Grievances Issues Resolved
Dec., 1983	Haldimand Board of Education and the Branch Affiliate of OSSTF	Tom Bastedo	Two Grievances, one Resolved, one to Arbitration
Dec., 1983	Essex County RCSS Board and the Branch Affiliate of OECTA	Graeme H. McKechnie	Issue Resolved
Jan., 1984	Halton Board of Education and the Branch Affiliate of OSSTF	Dr. Bill Marcotte	No Resolution; Issue to Arbitration
Jan., 1984	Peel Board of Education and the Branch Affiliate of OSSTF	David Moore	No Resolution
Jan., 1984	CFB Petawawa Board of Education and the Branch Affiliates of FWTAO and OPSTF	Dr. Bill Marcotte	Resolved
April, 1984	Sault Ste. Marie Board of Education and the Branch Affiliate of OSSTF	Dr. Harold Jakes	Issue Resolved; Rejected by Board
April, 1984	Kapuskasing Board of Education and the Branch Affiliate of AEFO	Norman Bernstein	Issued Resolved
June, 1984	North York Board of Education and the Branch Affiliates of FWTAO and OPSTF	Maureen Saltman	Agreement to hold Issue in Abeyance
June, 1984	Red Lake Board of Education and the Branch Affiliate of the OSSTF	Paul Piche	Issue Resolved; Rejected by Board
June, 1984	Northumberland and Newcastle Board of Education and the Branch Affiliate of the OSSTF	Maureen Saltman	No Resolution; Issue to Arbitration

(c) Selection and Training of Third Parties

Section 60(1)(e) of the Act directs the Commission "to select and where necessary, to train persons who may act as mediators, fact finders, arbitrators, and selectors."

(i) Selection

The Commission selects persons from a list of qualified fact finders and mediators to assist in collective negotiations as required. Its roster includes men and women from a variety of occupations including labour/management arbitrators, labour lawyers, academics and former educational administrators and teachers. Each year, the Commission continues to recruit a number of third parties who are bilingual.

Today, individuals who are utilized by the Commission not only must bring strong qualifications to the ERC but also must participate in the Commission's training programs. As well, the Commission now evaluates its third parties and only those individuals whose performance is superior continue to be appointed. The Commission continues to seek individuals whose background, experience and understanding of collective bargaining in education renders them eligible to provide the kind of third party assistance required by the ERC.

(ii) Training

Only one training session was held during the reporting year. Twenty participants from the 1982-83 fact finder's workshop (who were unable to gain any experience because of the lack of appointments during the "control" year of the *Inflation Restraint Act* and the progress of the Durham Determination through the courts) along with twenty new prospective fact finders attended this workshop. This year, an added feature was a simulation of a fact finding hearing, using data from one of the jurisdictions and using experienced third parties as trustees, teachers, administrators and the fact finder. Each participant was given a mock fact finding appointment and instructed to produce a report written within the time frame required in the Act (30 days). These reports will be evaluated and future assignments for these participants will be based on these evaluations.

The Commission continued to recruit new individuals with high qualifications from a variety of backgrounds. The majority has been trained in law, three were formerly trustees or administrators, two were former teachers, and one specializes in industrial relations.

Bill 111 Workshop

The Commission arranged an information session for its third parties in March 1984. Featured at this workshop was Mr. Ross Peebles, Executive Director of the Inflation Restraint Board. He explained the Act, the reporting requirements for fact finders, and the ability to pay concept, as outlined in the Act. Bob Bass, a management consultant, and formerly a statistician/researcher with the Metropolitan Toronto Board of Education, discussed the costing implications under Bill 111. At the beginning of the workshop, it was explained to the Commission's third parties that the material being presented was for information purposes only.

2. Research Services

Research Services gather and provide information to assist all parties in negotiations through numerous publications on salaries and other negotiation issues, and by responding to requests for data (see Table 2). Research Officers also undertake a broad variety of research tasks for the Commission.

(a) Information

The basic resource for the Commission's information base is the collective agreement. Approximately 200 agreements are analysed each year by Research Services' staff. (The number of collective agreements *negotiated* annually varies with the number of multi-year agreements.) Information related to salaries, benefits and working conditions is extracted from these agreements and placed in a computerized data bank. During the 1983-84 year, Research Services processed more than 1,100 requests for information.

In cooperation with the Ministry of Education, the Commission continued to receive information regarding school board expenditures for a variety of allowances and benefits which are provided to teaching staff, as well as enrolment and staffing data. These are available to the parties upon request.

The Commission's reference library contains a copy of all collective agreements, public fact finding reports, arbitration awards, final offer selection awards, and ERC determinations. The library may be used by interested individuals.

Table 2 Number of Requests for Information by Month and Party, 1983-84

	Local Teacher	Local Board	ERC Appointee	Provincial Teacher	Provincial Trustee	Media	Other	Total
1983								
Sept.	2	7	-	4	1	-	9	23
Oct.	6	11	-	2	2	-	13	34
Nov.	2	11	-	5	1	-	7	26
Dec.	5	8	-	2	-	-	5	20
1984								
Jan.	4	10	-	2	-	-	6	22
Feb.	3	10	-	6	2	-	10	31
Mar.	9	8	1	4	-	-	9	31
April	8	12	2	4	-	-	12	38
May	2	8	6	4	1	-	13	34
June	3	15	10	3	-	-	23	54
July	9	25	6	1	1	-		
Aug.	3	22	5	3	-	1		
Total	56	147	30	40	8	1	176	458

(b) Research

As in previous years Research Services personnel have prepared a number of publications containing pupil-teacher ratios, insured employee benefits, retirement gratuities, and compensation statistics. (see Appendix A)

Two staff-researched publications were of major significance this year. The first (an in-depth analysis of the fact finding process) entitled, "Fact Finding, 1982-83: Issues and Recommendations" places the fact finding process in a provincial perspective in terms of the predominant issues at the local level and the range of recommendations related to these issues by fact finders.

The second publication deals with Final Offer Selection. This is a method of dispute resolution which is offered to the parties under the *School Boards and Teachers Collective Negotiations Act R.S.O. 1980*, and which is unique in labour legislation in Canada. The publication, is entitled "Final Offer Selection: A Summary Analysis of the Experience and Decisions under the School Boards and Teachers Collective Negotiations Act, 1975-76 to 1982-83".

The *Provincial Overview*, is a bi-monthly publication published by the Commission during the school year. It contains negotiation updates from settlements in the elementary, secondary and R.C.S.S. panels. In response to suggestions from the parties, it has been expanded from six to eight pages in order to provide more flexibility in reporting details of settlement data. It also has been used to report topics related to the bargaining process in education.

The analysis of the bargaining process in Ontario education in terms of negotiation length, number of third party appointments and stages of the Act utilized in the bargaining process was not conducted during the reporting year due to the "control year" provisions of the *Inflation Restraint Act*. This on-going study which was initiated four years ago will be updated during the 1984-85 bargaining year.

Research Services invited interested trustee, teacher and administration groups across the province to meet and discuss the information resources of the Commission. To this end, 26 meetings were held during the reporting year. The response from all parties to this request has been significant and clearly indicates the need to inform personnel new to bargaining in the education sector of the Commission's data resources.

A representative of the Commission attended the 25th annual meeting of the Statistics and Research Committee of the Canadian Association of Administrators of Labour Legislation (CAALL). This provided a valuable opportunity to share experiences with and learn from others involved in similar activities across the country.

Table 3 Number of Requests for Publications, Month and Party, 1983-84

	Local Teacher	Local Board	ERC Appointee	Provincial Teacher	Provincial Trustee	Media	Other	Total
1983								
Sept.	14	16	1	1	—	2	20	54
Oct.	5	6	—	2	—	—	13	26
Nov.	7	8	—	1	—	—	26	42
Dec.	10	5	1	—	—	—	13	29
1984								
Jan.	14	20	—	4	1	1	23	63
Feb.	20	17	1	2	1	—	35	76
Mar.	13	3	2	1	—	—	37	56
April	21	21	—	4	—	—	55	101
May	9	11	1	1	—	—	59	81
June	8	8	—	1	—	—	59	76
July	3	5	—	1	—	—	14	23
Aug.	1	3	—	1	—	—	14	19
Total	125	123	6	19	2	3	368	646

1. The Parties

The parties to negotiations are the 2,200 trustees and the 106,000 teachers who represent and work in the approximately 200 school boards in the province. In general terms, there are two kinds of school boards. The Boards of Education (76) are divided into elementary and secondary panels. The Roman Catholic Separate School Boards (48) provide Catholic education in the province. In many cases, these Boards are geographically different from each other. A second difference is illustrated by the fact that the R.C.S.S. Boards do not have a secondary panel. Provincial funding for the R.C.S.S. Boards is provided to grade 10 only. Such Boards offering grades 11, 12 and 13 are actually operating private schools.*

Both the trustees and the teachers are organized in a group of organizations under a parent body. For the teachers, the parent body is the Ontario Teachers' Federation (OTF). This organization is made up of representatives of:

1. The Federation of Women Teachers' Associations of Ontario (FWTAO);
2. The Ontario Public School Teachers' Federation (OPSTF);**
2. The Ontario Secondary School Teachers' Federation (OSSTF);
4. The Ontario English Catholic Teachers' Association (OECTA);
5. L'Association des enseignants franco-ontariens (AEFO).

Bargaining rights reside with the branch affiliates of the above bodies.

The trustee parent organization is the Ontario School Trustees' Council (OSTC) which is composed of representatives from:

1. The Association of Large School Boards of Ontario (ALSBO);
2. The Ontario Public School Trustees' Association (OPSTA);
3. The Ontario Separate School Trustees' Association (OSSTA);
4. L'Association française des conseils scolaires de l'Ontario (AFCSO);
5. The Northern Ontario Public and Secondary School Trustees' Association (NOPSSTA).

*This, however, will no longer be the case. In June 1984 the Premier announced the extension of funding to Secondary Schools in RCSS boards.

**Changed from Ontario Public School Men Teachers' Federation at annual conference in August, 1982. (OPSMTF)

During 1983-84, approximately 80,000 Ontario teachers negotiated the terms and conditions of their employment. The number of school boards and the branch affiliates, by type, and the number of teachers employed by those boards are summarized in Table 4.

Table 4 School Boards, Branch Affiliates, and Teachers in Ontario 1983-84

Board Classification	Number of Boards	Number of Branch Affiliates				
		FWTAO	OPSTF	OECTA	AEFO	OSSTF
Boards of Education	76*	76	76	—	25	76
Metro. Toronto School Board*	1	1	1	—	—	—
County and District Combined Roman Catholic Separate School Boards	48	—	—	47	40	—
Other Public School Boards	42	4	7	—	—	—
Other Separate School Boards	13	1	1	5	4	—
Secondary School Boards	1	—	—	—	—	1
Boards on Crown Lands, Hospital and Hydro Centres and the Provincial Schools Authority	23	8	8	—	4	2
Total	204	90	93	52	73	79
Number of Teachers	106,046	30,247	14,613	20,420	5,354	35,412

* The Metropolitan Toronto School Board, which operates schools for the trainable retarded, does not operate elementary and secondary schools as such; however, its teachers are members of the elementary school branch affiliates, FWTAO and OPSTF

2. Renewals under the Act

It should be noted that the number of negotiations during any given year will vary because of the existence of multi-year agreements. That is, not every agreement comes up for renewal every year. From the 204 school boards and 387 branch affiliates, referred to in Table 4, 178 situations were subject to negotiations.

Table 5 Status of Negotiations, 1983-84

Board Classification	Not Subject to Negotiation*	Subject to Negotiation
Boards of Education — Elementary	20	56
Boards of Education — Secondary	16	60
County and District Combined Roman Catholic Separate School Boards	8	40
Other School Boards	2	22
Total	46	178

* Concluded a multi-year settlement during a previous year.

3. Duration of Agreements

Table 6 provides a breakdown of the duration and termination dates of settlement reached *during* 1983-84.

Table 6 Duration and Termination of Settlements Concluded in 1983-84*

Board Classification	Not Settled*	1 Year Aug. 31/84	2 Years Aug. 31/85
Boards of Education — Elementary	7	49	—
Boards of Education —Secondary	22	38	—
County and District Combined Roman Catholic Separate School Boards	5	34	1
Other School Boards	4	18	—
Total	38	134	1

* Based on the assumption that collective agreements are *not* extended by the Inflation Restraint Act.

One of the significant developments over the past four years has been the number of *multi-year* agreements negotiated by the parties. However, with the introduction of the *Inflation Restraint Act* this trend came to an end — although there were 46 multi-year agreements negotiated during 1982-83. Many parties interpreted Section 13 of the *Inflation Restraint Act* to mean that collective agreements had automatically been renewed, and therefore there was nothing to negotiate. The Commission, as explained in its determination concerning the Durham Board of Education, did not agree with this interpretation. As a result it is not clear just what constitutes a settlement.

Table 7 presents the number of multi-year agreements reached during each year since the inception of the Act. A clear trend toward multi-year agreements began in the 1978-79 reporting year and continued through 1981-82.

Only one multi-year agreement was concluded during the reporting year, largely due to the impact of the Inflation Restraint Act. The importance of multi-year agreements cannot be overemphasized. They introduce a measure of stability in teacher/school board relationships and bargaining, and generally reduce the number of third party appointments by the ERC.

Table 7 Term of Agreements, 1975-76 to 1983-84

Term of Agreement	1975-76		1976-77		1977-78		1978-79		1979-80		1980-81		1981-82		1982-83		1983-84	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Elementary: Agreements on File	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	69***	100.0
Term: 8 Months	8	10.5	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	—
1 Year	56	73.7	63	82.9	68	89.5	57	75.0	30	39.5	18	23.7	35	46.1	40	52.6	49	71.0
1st Yr. of Multi-Yr.	8	10.5	1	1.3	6	7.9	13	17.1	33	43.4	25	32.9	15	19.7	20	26.3	—	0.0
20 Months	4	5.3	4	5.3	1	1.3	—	0.0	—	0.0	—	0.0	—	0.0	—	—	—	0.0
2nd or 3rd Yr. of Multi-Yr.	—	0.0	8	10.5	1	1.3	6	7.9	13	17.1	33	43.1	26	34.2	16	21.1	20	29.1
Secondary: Agreements on File	76	100.0	76	100.0	76*	100.0	76	100.0	76	100.0	76	100.0	76	100.0	67**	100.0	54***	100.0
Term: 8 Months	5	6.6	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	—
1 Year	53	69.7	56	73.7	70	93.3	53	69.7	25	32.9	22	28.9	34	44.7	35	52.2	38	70.4
1st Yr. of Multi-Yr.	10	13.2	3	3.9	1	1.3	22	28.9	29	38.1	23	30.3	17	22.4	14	22.4	—	—
20 Months	7	9.2	7	9.2	1	1.3	—	0.0	—	0.0	—	0.0	—	0.0	—	—	—	—
2nd or 3rd Yr. of Multi-Yr.	1	1.3	10	13.2	3	4.0	1	1.3	22	28.9	31	40.8	25	32.9	17	25.4	16	29.6
R.C.S.S.: Agreements on File	48	100.0	48	100.0	48	100.0	48	100.0	48	100.0	48	100.0	48	100.0	48***	100.0	43***	100.0
Term: 8 Months	11	22.9	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	—
1 Year	27	56.3	38	79.2	41	85.4	38	79.2	17	35.4	12	25.0	23	47.9	27	56.3	34	79.2
1st Yr. of Multi-Yr.	3	6.3	3	4.2	4	8.3	6	12.5	25	52.1	11	22.0	14	29.2	8	16.7	1	2.3
20 Months	6	12.5	5	10.4	1	2.1	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	—
2nd or 3rd Yr. of Multi-Yr.	1	2.1	3	6.3	2	4.2	4	8.3	6	12.5	25	52.0	11	22.9	13	27.0	8	18.6
Total: Agreements on File	200	100.0	200	100.0	199	100.0	200	100.0	200	100.0	200	100.0	199	100.0	191	100.0	166	100.0
Term: 8 Months	24	12.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	—
1 Year	136	68.0	157	78.5	179	89.9	148	74.0	72	36.0	52	26.5	92	45.8	102	53.4	121	72.9
1st Yr. of Multi-Yr.	21	10.5	6	3.0	11	5.5	41	20.5	87	43.5	59	29.0	46	23.1	43	22.5	1	0.6
20 Months	17	8.5	16	8.0	3	1.5	—	0.0	—	0.0	—	0.0	—	0.0	—	0.0	—	—
2nd or 3rd Yr. of Multi-Yr.	2	1.0	21	10.5	6	3.0	11	5.5	41	20.5	89	44.0	52	26.1	46	24.1	44	26.5

*Windsor Secondary did not have a collective agreement in effect during 1977-78.

**Not settled for 1982-83.

Secondary — Bruce, East York, Etobicoke, North York, Ottawa, Renfrew, Scarborough, Sudbury, York City.

***Not settled for 1983-84.

Elementary — Durham, Kirkland Lake, Lennox & Addington, Peel, Peterborough, Toronto, Wentworth.

Secondary — Bruce, Central Algoma, East York, Etobicoke, Haldimand, Huron, Kapuskasing, Kenora, Kent, Lennox & Addington, Lincoln, North York, Ottawa, Peel, Perth, Peterborough, Prince Edward, Renfrew, Scarborough, Timmins, Toronto, York City.

R.C.S.S. — Ottawa, Peterborough, Sudbury, Welland, York Region.

4. Persons Appointed to Assist - Mediators

Mediators, or "persons to assist" as they are referred to under section 13 of the Act, can be appointed at any time, either at the direction of the Commission or, with Commission concurrence, at the request of one or both parties.

As a consequence of the *Inflation Restraint Act*, only five mediators were appointed during the 1983-84 negotiating year (see table 8). Each appointment was made in response to a joint request from the parties. The results are shown in Table 9.

Table 8 Assignment of Mediators, 1983-84

Board Classification	Situations Negotiating 1983-84	No Med.	Med. Only	Med. Pre F.F. Only	Med. Post F.F. Only	Med. Pre/Post F.F.
Boards of Education — Elementary	56	56	-	-	-	-
Boards of Education — Secondary	60	56	4	-	-	-
County and District Combined Roman Catholic Separate School Boards	40	39	1	-	-	-
Other School Boards	22	22	-	-	-	-
Total	178	173	5	0	0	0

Table 9 Mediation, 1983-84

Jurisdiction	Mediator	Outcome
Elementary		
Secondary		
Central Algoma	Mac Stockton	— clarified positions isolated main issue
East Parry Sound	Eric Runacres	— Settlement
Lennox & Addington	Mac Stockton	— reduction in outstanding issues
Northumberland -Newcastle	Doug Belch	— Settlement
R.C.S.S.		
Kapuskasing	Bill Marcotte	— Settlement

5. Fact Finding

Fact finding affords an opportunity for the parties to clarify and narrow the differences which exist between them in order to reach a settlement when the collective agreement expires. The process becomes mandatory once August 31 has passed (the contract expiry date in all teacher/school board collective agreements). Further, it is a necessary procedure under the Act before teachers can take strike action or before a school board can initiate a lock-out. The fact finding process also recognizes the public's right to know the substantive and procedural issues of a dispute as well as each party's position prior to any possible interruption to the normal school program.

The Commission may appoint a fact finder at any time during negotiations either upon the request of one or both parties or if the Commission deems that the parties are at an impasse and would benefit from such assistance. The fact finder, a third party neutral, investigates the particular local situation and then files a written report with the Commission. A time limit of thirty days is established in the Act for the fact finder to meet with the parties, examine their written submissions, listen to oral arguments, write the report and submit it to the Commission. The Commission, in turn, immediately delivers the report to the parties.

The report must set out those matters upon which the parties have agreed as well as those upon which they have not agreed. A fact finder may make recommendations regarding any matter which he or she feels is relevant and on any of the items in dispute. The fact finder's recommendations, while not binding upon the parties, often narrow their differences, or are accepted by the parties in whole or in part.

Once the parties receive the report, they have a 15-day period in which to reach a settlement before the report is made public. If an agreement is not negotiated during this time, the report must be made public by the Commission. Should the parties reach settlement at any time during the fact finding, the process is automatically terminated.

It is clear from experience in the first seven years since the passage of the Act that fact finding has the potential to assist and, in many cases, actually has assisted the parties in reaching negotiated settlements. To date, the Commission and the parties have generally found it to be a useful process which has worked reasonably well. At the same time, there were observations made before the Matthews Commission that not only were negotiations far too long but also that in some cases fact finding had contributed to the delay. There were also submissions that fact finding in some instances was ineffective and perhaps over-utilized by some of the parties.

Under any labour legislation (including Bill 100), there is a very real danger that a process such as fact finding will be ignored or misused by the parties, thereby weakening the philosophical thrust of the Act and undermining its effectiveness. As a consequence, the Commission has encouraged the parties to utilize fact finding only if absolutely necessary. The preference, wherever possible, is to settle prior to the point when, under the Act, the Commission must appoint a fact finder. Second, the Commission has attempted to strengthen the fact finding process by trying to convey to the parties and to its third party neutrals that if a settlement cannot be reached without fact finding, the ensuing process should be one out of which a meaningful fact finder's report will emerge. This report would clearly and concisely address the issues in dispute and, if at all possible, present to the parties at least the broad outlines of a settlement. Finally, during the past few years, the Commission has recruited and appointed individuals with extremely high qualifications and experience in labour-management and/or teacher/school board relations; individuals who also have the expertise to write outstanding and effective fact finding reports.

Table 10, however, reveals that there were no fact finding appointments during the 1983-84 bargaining year. This was not due to voluntary dispute resolution by the parties but instead was due to the "control year" conditions of the *Inflation Restraint Act* and the protracted progress of the Durham Determination through the courts. Because of the hiatus in bargaining one of the dangers now facing collective bargaining in Ontario education is that, in future negotiation rounds, third parties will be over utilized by the parties. In many jurisdictions the parties have not had meaningful negotiations for two years and therefore 1984-85 negotiations are likely to be contentious and lengthy.

Table 10 Fact Finder Appointments, Reports Released to Parties and Reports Made Public, 1983-84

Board Classification	Fact Finder Appointments	Reports Released To Parties	Reports Made Public
Boards of Education — Elementary	—	—	—
Boards of Education — Secondary	—	—	—
County and District Combined Roman Catholic Separate School Boards	—	—	—
Other School Boards	—	—	—
Total	0	0	0

6. Strikes, Lock-outs and School Closings

Out of the 178 sets of negotiations referred to in Table 5, none experienced teacher sanctions.

A complete record of sanctions since the passage of the Act is included in Appendix B.

7. Voluntary Binding Arbitration/Final Offer Selection

At any time during negotiations, the parties can mutually agree to choose one of two options of third party resolution: voluntary binding arbitration or final offer selection. If a negotiated settlement is reached at any time during these procedures, the process is automatically terminated. Neither option of third-party resolution was utilized by the parties during the reporting year.

Table 11 Agreements Reached by Voluntary Binding Arbitration or Final Offer Selection, 1983-84

Board Classification	Agreements Reached by Voluntary Binding Arbitration	Agreements Reached by Final Offer Selection
Boards of Education — Elementary	—	—
Boards of Education — Secondary	—	—
County and District Combined Roman Catholic Separate School Boards	—	—
Other School Boards	—	—
Total	0	0

(a) Voluntary Binding Arbitration

Under the voluntary binding arbitration procedure, the parties may refer all matters remaining in dispute to either an arbitrator or a board of arbitration. Within 7 days of the appointment of the arbitrator or chairman of the arbitration board each party must submit to the other party and to the arbitrator/chairman, written notice of all matters agreed upon during negotiations and all matters remaining in dispute. The arbitrator or board of arbitration is responsible for determining procedures which give both parties full opportunity to present their evidence and make their submissions.

Within 60 days of the appointment of the arbitrator/chairman, or such longer period of time as the two parties may agree to, the arbitrator or board of arbitration must provide the parties with a written report of his/its decision. The decision of the arbitrator or board of arbitration is final and binding and the parties are required, within 30 days following receipt, to incorporate within a signed agreement the matters agreed to in negotiations and the decision rendered through arbitration.

(b) Final Offer Selection

Under this resolution procedure, each party's final position concerning the items remaining in dispute, together with any supporting evidence, is presented to a selector and the other party within 15 days of appointment of the selector. The parties may then provide written responses to the other party's position and the selector may hold a hearing.

Within 15 days of the hearing (or notice from the parties to dispense with the hearing), the selector must choose one party's final offer in its entirety. This offer is then incorporated into an agreement which also includes those items agreed to by the parties during negotiations.

8. Grievance Arbitration

Grievance procedure clauses in some collective agreements specify that the Commission be asked to appoint a single arbitrator or chairman of an arbitration board to resolve a ***grievance*** as the final and binding step of the procedure.

During 1983-84, the Commission made 7 such appointments, 3 were chairmen of arbitration boards, and 4 were single arbitrators. The Commission made 3 appointments the previous year, two for chairmen of arbitration boards, and one for a single arbitrator.

Table 12 Appointments Concerning Grievance Arbitration, 1983-84

Board Classification	Number of Appointments By ERC	Nature of Appointments
Boards of Education — Elementary	0	
Boards of Education — Secondary	5	3 Chairmen 2 Single Arbitrator
County and District Combined Roman Catholic Separate School Boards	2	2 Single Arbitrator
Other School Boards	-	—
Total	7	

9. Supervised Votes: Last Offer, Strike and Ratification

Prior to any strike activity, the teachers must first request (in writing) the Board's last offer concerning all matters agreed upon and all matters remaining in dispute. A secret ballot vote on the board's last offer must then be conducted under the Commission's supervision. If the teachers reject this offer, a second secret ballot vote to determine whether the teachers favour a strike may then be held, again under the supervision of the Commission.

As indicated in Table 13, the Commission was not called on to supervise any votes during the 1983-84 bargaining year.

Table 13

Board's Last Offer, Strike and Ratification Votes, 1975-76 to 1983-84

Vote	1975-76	1976-77	1977-78	1978-79	1979-80	1980-81	1981-82	1982-83	1983-84	Total
Board's Last Offer Votes										
Elementary	—	—	2	1	1	—	—	—	—	
Secondary	15	5	8	9	12	1	7 ¹	4	—	
R.C.S.S.	—	5	5	3	12	3	5 ⁴	—	—	
Other	—	—	—	1	1	1	—	—	—	
Total	15	10	15	14	26	5	12	4	—	101
Strike Votes										
Elementary	—	—	1	1	1	—	—	—	—	
Secondary	15	4	7	4	9	1	5 ^{1,2}	1	—	
R.C.S.S.	—	1	4	2	7	2	5 ⁴	—	—	
Other	—	—	—	1	1	—	—	—	—	
Total	15	5	12	8	18	3	10	1	—	72
Ratification Votes										
Elementary	—	—	—	—	2	—	—	—	—	
Secondary	—	1	5	2	4	2	3 ³	—	—	
R.C.S.S.	—	—	1	—	2	1	2 ⁴	—	—	
Other	—	—	—	—	—	—	—	—	—	25
Total	—	1	6	2	8	3	5	—	—	198

Note: Boards of Education within Metropolitan Toronto counted individually.

¹Includes separate votes conducted by O.S.S.T.F. and A.E.F.O. in Simcoe.

²Includes vote taken in Northumberland and Newcastle, but not counted as Branch Affiliate, in supervised vote, voted to accept the last offer received from the school board.

³Includes two (2) votes in West Parry Sound as first vote resulted in rejection.

⁴Includes separate votes conducted by O.E.C.T.A. and A.E.F.O. in Carleton R.C.S.S.

10. Determination of Good Faith Bargaining

Seven complaints of failure to bargain in good faith were filed with the Commission during 1983-84 and one has been resolved as indicated in Table 14. The remaining charges stem from the conflicting interpretation of Bill 179 and its effect on Bill 100. Therefore, hearings with respect to these charges will not be held until the legal proceedings are settled in the courts. (See Page 3)

Table 14 Good Faith Bargaining Charges, 1983-84

Complainant	Respondent	Disposition
Branch Affiliate of O.S.S.T.F.*	Muskoka Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.* (2 complaints filed)	Durham Board of Education	Ruling on Preliminary objection
Branch Affiliate of O.S.S.T.F.*	Board of Education for the Borough of East York	Pending
Branch Affiliate of O.S.S.T.F.* (2 complaints)	Bruce County Board	Pending
Branch Affiliate of O.S.S.T.F.*	Red Lake Board of Education	Pending
Branch Affiliate of O.S.S.T.F.*	Kent County Board of Education	Pending
Branch Affiliates of F.W.T.A.O. and O.P.S.T.F.	Sault Ste. Marie Board of Education	Pending
Branch Affiliates of O.S.S.T.F. and A.E.F.O.	Ottawa Board of Education	Pending
Branch Affiliates of F.W.T.A.O., O.P.S.T.F. and A.E.F.O.	Simcoe County Board of Education	Withdrawn

*Initiated during the previous year

11. Advisements

During the 1983-84 bargaining year the Commission did not issue any advisements, concerning its obligation to advise the Lieutenant Governor in Council when in its opinion the continuation of a strike, lockout, or closing of schools would place in jeopardy the successful completion of courses of study by students.

APPENDIX A PUBLICATIONS ISSUED DURING 1983-84

Teacher Board Collective Agreements: Individual Summaries

A Provincial Overview

Grievance Arbitration: Summaries of arbitration decisions arising out of differences between the parties under the *School Boards and Teacher's Collective Negotiations Act*.

Teacher Placement: Grid Distributions of Ontario Teachers, Total Staff and Enrolment, January 31, 1984.

Monograph Series:

No. 33: Compensation Statistics, 1982-83

No. 34: Salary Relativities, 1975-76 to 1983-84

No. 35: Pupil Teacher Ratios, 1976-83

No. 36: Final Offer Selection: A Summary Analysis of the Experience and Decisions under the School Boards and Teachers Collective Negotiations Act, 1975-76 to 1982-83

No. 37: Insured Benefits and Retirement Gratuities, 1983-84

Clause File Series:

No. 24: Surplus/Redundancy Provisions related to Positions of Responsibility, 1981-82

No. 25: Early Retirement Incentive Plans, 1982-83

Other Publications:

Fact Finding, 1982-83: Issues and Recommendations.

The Sudbury School Strike and Laurentian Students

SANCTION RECORD, 1975-76 to 1983-84

Year/ School Board	Total Sanction Days	Total sanction Days Excluding Work-to-rule
1975-76 Secondary (6):*		
**Central Algoma	35	35
Kent County	66.5	13.5
**Kirkland Lake	44	44
**Metro Toronto	38	38
**Sault Ste. Marie	46	13
**Windsor	27	26
Year Average	42.7 (40.6)***	28.2 (32.7)***
1976-77 Secondary (2):		
Peel	44	0
Stor., Dundas, Glengarry	24	24
Year Average	34.0	12.0
R.C.S.S. (1):		
Durham	9	9
Year Average	9.0	9.0
1977-78 Secondary (5):		
Essex	16	16
Huron	31	31
Perth	41	0
**Renfrew	73	44
Wentworth	49	16
Year Average	42.0	21.4
R.C.S.S. (1):		
Essex	34	34
Year Average	34.0	34.0
1978-79 Secondary (3):		
Haldimand	36	36
Kirkland Lake	30	26
York County	5	2
Year Average	23.7	21.3
1979-80 Elementary (2):		
Brant	22	22
Peel	14	13
Year Average	18.0	17.5
Secondary (3):		
Lambton	39	39
North York	40	0
**Sudbury	56	56
Year Average	45.0	31.7
R.C.S.S. (2):		
Frontenac	14	14
Nipissing	18	18
Year Average	16.0	16.0
1980-81 Secondary (3):		
Bruce	40	38
Leeds and Grenville	30	30
Norfolk	48	47
Year Average	39.3	38.3
R.C.S.S. (1):		
Essex	9	9
Year Average	9.0	9.0
1981-82 Secondary (2):		
Leeds and Grenville	0	0
West Parry Sound	51	51
Year Average	25.5	25.5
R.C.S.S. (2):		
Carleton (OECTA)	19	19
Carleton (AEFO)	11	11
Year Average	15.0	15.0
1982-83 Secondary (1):		
Oxford County	7	1
Year Average	7.0	1.0
1983-84 (0)	0	0

* 11 sanctions if Metro = 6.

** An advisement was made pursuant to section 60(1)(h).

*** Average if Metro = 6.

**APPENDIX C STATEMENT OF EXPENDITURES,
APRIL 1, 1983 — MARCH 31, 1984**

Categories	Budget Allocation \$	Actual Expenditures \$
Salaries and Wages	538,000	522,141
Employee Benefits	79,900	66,719
Transportation and Communication	140,400	120,697
Communications	18,000	10,453
Mailing	15,600	19,579
Freight	-	161
Relocation Expenses	0	2,362
Travel-Public Servants	41,800	32,357
Travel-Others	65,000	55,785
Services	317,400	300,055
Advertising - Print, Design	38,500	91,756
Rental Services	8,800	6,332
Data Processing	22,000	40,624
Housekeeping	2,000	1,234
Conference Expenses	30,000	23,964
Commissioners	30,000	26,535
Professional Services	143,600	97,346
Purchasing, Repairs	2,500	3,886
Special Services	40,000	8,378
Supplies	42,200	45,198
Data Processing Equip./Supplies	25,000	29,159
Office Furniture	2,000	1,624
Veh. Components, Hardware	0	2
Office Equipment	2,000	2,047
Lab. Equip./Drugs	0	0
Utilities, Other Supplies	500	1
Office Supplies	7,700	7,961
Books/Publications	5,000	4,404
Total	1,117,900	1,054,810

Negotiations conducted in accordance with the Act

Total Number of Negotiations Conducted by Boards and Teachers in Ontario	178
Number of Negotiations Not Requiring Formal Commission Assistance	173
Number of Fact Finders Assigned	0
Number of Situations where Mediator Assigned	5
Settlements by Voluntary Binding Arbitration	0
Settlements by Voluntary Final Offer Selection	0

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Annual Report



Education Relations Commission

1984-1985





**Education
Relations
Commission**

Telephone (416) 922-7679

**111 Avenue Road
Suite 400
Toronto, Ontario
M5R 3J8**

To: The Members of the Legislative Assembly
Province of Ontario

**ANNUAL REPORT
1984-1985**

Dear Members,

We have the honour to present the Tenth Annual Report of the Education Relations Commission, covering the period from September 1, 1984 to August 31, 1985.

Sincerely,

Bryan M. Downie
Chairman

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OVERVIEW

The 1984-85 reporting year was a difficult one for the Commission and for the parties. The major development was a return to collective bargaining after a two year period of wage controls.

NEGOTIATIONS

The problems referred to above were not unexpected. In last year's Annual Report the Commission had this to say:

The return to collective negotiations after a two year hiatus and with informal limits on total compensation for 1984-85 has major implications for the length and character of the bargaining process. The Commission is of the view that bargaining in general will be long and difficult in the forthcoming round.

During the 1984-85 round, there were a total of 227 sets of negotiations — more than any other year since the Commission's inception. This resulted in an extremely heavy work load for the Commission's staff and its cadre of ad hoc third parties.

Of more concern was the fact that negotiations were more difficult and required more third party intervention than in any previous year. There were a greater number of mediator appointments — both in terms of total number and as a percentage of negotiations conducted — than in any previous negotiation round. This was also the case of fact finder appointments.

Negotiations were long and drawn out and a total of seven strikes occurred — four in the secondary school system and three in separate school boards. As well, Commission staff was called upon to supervise a larger number of last offer and strike votes than in any previous round.

The above may be simply a response to the two year hiatus mentioned above. The 1984-85 results are particularly disturbing, however, if they are a portent for future negotiation rounds. That is, it may be that 1984-85 signals a fundamental change in teacher-school board negotiations. If so, new approaches may be necessary to ensure an effective and efficient process of dispute resolution. One approach ("proactive bargaining") utilized in 1984-85 is described on pages 16-18 of this report. The results of that approach were not encouraging and are indicative of the difficulties in this area.

THE DURHAM CASE

During the reporting year the Ontario Court of Appeal upheld the Commission's determination in the Durham Case. The Durham determination was made by the Commission in 1983 and flowed from conflicting views regarding the relationship of the **School Boards and Teachers Collective Negotiations Act** (Bill 100) and the **Inflation Restraint Act**. The main question in the case was whether the provisions of the **Inflation Restraint Act** extended (for the life of that Act) the collective agreements of the parties covered by Bill 100. If that were the case, collective negotiations for the 1983-84 period would be discontinued.

The Commission decided (in a good faith bargaining case involving the Durham Board of Education) that the provisions of the **Inflation Restraint Act** did not automatically extend the collective agreement and, therefore, that collective bargaining on non-compensation matters should be continued under the provisions of Bill 100. This determination was taken for judicial review by the Durham Board of Education.

The Commission's determination was upheld in the Divisional Court of the Supreme Court of Ontario in October 1983. In May 1984 the case was argued in the Court of Appeal. In its decision released on October 22, 1984 the Court of Appeal made the following comments:

In short, the Labour Relations Board held that section 13(b) of the Act extended the life of collective agreements which contained compensation plans. The Education Relations Commission held that Section 13(b) did not extend the life of such collective agreements...The Board and Commission gave extensive, well considered and persuasive reasons for their conclusions. Both, however, cannot be right.

The Court went on to say:

... We conclude that the Labour Relations Board and the Divisional Court erred in finding that the Service Employees Union's application was not timely on the grounds that Section 13 continued in force the collective agreement there in issue.

We further conclude that the Education Relations Commission's decision, that the application of the OSSTF was timely, was correct...

RESEARCH SERVICES

During the reporting year the Commission reviewed the research and information services provided to the parties and to its third parties. After an extensive period of study and analysis, it was concluded that the Commission's existing operations on an external mainframe computer should be closed down, a Digital VAX 11/750 mini computer should be purchased, and all computing should be carried out "in house". This change will allow the ERC to reduce its data processing costs while vastly improving and expanding its Research and Information Services.

PERSONNEL CHANGES

Kathryn Mullin (resignation), Field Service Officer, who was with the Commission briefly, left during the reporting year. To fill this vacancy the Commission appointed Ms. Victoria E. Grabb, of Toronto, as Field Service Officer.

Ms. Grabb holds a B.A. (History and Sociology) and an M.A. (Sociology) from the University of Toronto. In addition, she has completed all the requirements except the dissertation for a Ph.D. Ms. Grabb taught sociology at the University of Toronto before taking up a position with the University of Toronto Faculty Association in 1980. In this latter capacity she developed broad experience in collective bargaining, research and policy analysis.

I TEACHER/SCHOOL BOARD BARGAINING IN ONTARIO — A BRIEF HISTORY

On July 18, 1975, legislation granting Ontario teachers the right to bargain collectively and the right-to-strike was enacted in Ontario. Prior to the passage of legislation, which would become known as Bill 100, the Ontario government had proposed legislation which included compulsory arbitration rather than the right-to-strike. In response to the proposed statute (Bill 275), both teacher and trustee organizations, albeit for different reasons, lobbied the Government to include the right-to-strike in the legislation. The right-to-strike became a priority for the teachers because they viewed compulsory arbitration as an ineffective form of dispute resolution. The trustees viewed compulsory arbitration as both an imposition on, and an erosion of, local board autonomy and, therefore, in conflict with the principle of representative government.

Moreover, those who drafted Bill 100 were convinced by events in the education sector as well as other jurisdictions that strike-prohibiting legislation is not always effective. In fact, it was felt that it could have the opposite effect. There was — and is — a feeling by many labour relations experts that legislation prohibiting strikes may expand or magnify employer-employee confrontation. The primary reason for proposing Bill 100 was to introduce to the province some stability and order in teacher / board bargaining, and against this background the right-to-strike was included in the legislation.

The need for legislation regarding teacher-board negotiations was obvious in the early 70's. Teachers were demanding the right to collectively bargain such issues as working conditions, grievance procedures, and financial matters. Some trustees viewed the collective bargaining process as an infringement of management rights. The net result, in the absence of legislation, was that bargaining took place in a vacuum and that relationships between trustees and teachers were deteriorating both on an individual and organizational basis.

The School Boards and Teachers Collective Negotiations Act, 1975, brought order to this confusion by providing ground rules for collective bargaining. Although the most publicized feature of the Act was the right-to-strike, realistic alternatives such as **voluntary** arbitration or final offer selection were provided at each step in the bargaining process. Events leading to a legal strike or lock-out under the Act were regulated. For example, a strike or lock-out under the Act is not legal until:

- (a) a fact finder has met with the parties and his / her report has been made public; and
- (b) a 30-day cooling-off period takes place after the fact finder's report is submitted to the parties; and
- (c) the teachers have voted-by secret ballot in a supervised vote-on the last offer of the school board; and
- (d) the teachers have voted — by secret ballot in a supervised vote — to take strike action.

Other features of the Act were also significant. Negotiations take place at the county board level between the local teachers' federation(s) and the school board. There are separate negotiations in the elementary and secondary panels of each board. The scope of negotiations is open, i.e., all matters are negotiable. Each collective agreement is deemed to contain a procedure for binding settlement of disputes arising out of the administration of the agreement if such a procedure has not been negotiated locally, and a strike or a lock-out is illegal during the term of the collective agreement.

Finally, the Act provided for a five-person commission — The Education Relations Commission — to monitor and assist all local negotiations between teachers and school boards and to administer the Act. The Commission was given seven specific functions under Section 60 of the Act which are outlined below:

1. monitoring all negotiations;
2. collecting and providing data to all parties in collective negotiations;
3. assisting the parties in their collective negotiations;
4. training third party neutrals;
5. adjudicating good faith bargaining charges;
6. supervising last-offer, strike and ratifications votes;
7. advising the Lieutenant Governor-in-Council concerning jeopardy to students' courses of study in the event of a strike and/or lock-out.

Four years after the passage of Bill 100, the Minister of Education announced in the Legislature the establishment of a Commission to review the collective negotiations process between teachers and school boards. This Commission — referred to as the Matthews Commission — chaired by Dr. B.C. Matthews, then President of the University of Waterloo, submitted its report to the Minister of Education, in June of 1980. Based on the experience during the first five years of Bill 100, the Matthews Commission proposed a small but nevertheless significant set of recommendations to change the Act.

Redundant sections of the Act were removed in 1981 during a review of legislation by the Provincial Government. As well, the name of the Act was changed to the School Boards and Teachers Collective Negotiations Act. Revised Statutes of Ontario, 1980, Chapter 464.

II INFLATION RESTRAINT ACT

Teacher-Board negotiations were significantly altered when **An Act respecting the Restraint of Compensation in the Public Sector of Ontario and Monitoring of Inflationary Conditions in the Economy of the Province** (Bill 179) was introduced. Briefly, Bill 179, introduced in the Legislature on September 21, 1982, limited compensation increases in the public sector to up to 9 per cent in the first year of the program (the “transitional” year) and 5 per cent in the second year (the “control” year). The legislation removed the right-to-strike or lock-out and also provided for the formation of the Inflation Restraint Board (IRB) to administer the Act, and to monitor wage and price increases in the public and private sectors.

The introduction of Bill 179 had an immediate effect on the progress of teacher/board negotiations. In almost every instance across the province, negotiations were stalled as the parties assessed the implications of the proposed legislation. During the three month period from the time the Bill was introduced until it was proclaimed the bargaining atmosphere was adversely affected as uncertainty about the implications increased. This uncertainty persisted as bargaining slowly resumed.

In this regard, the significant sections of the Act were as follows:

Section 13: which extended the terms and conditions of the collective agreement;

Section 14: which allowed the parties to a collective agreement to apply to the IRB with respect to certain disputed matters;

Section 15: which stated that parties to a collective agreement which includes a compensation plan that is extended under Section II may, by agreement, amend the terms and conditions ... other than compensation rates,...

In many jurisdictions negotiations proceeded normally within the constraints imposed by the provisions of Bill 179. Collective agreements were signed which reflected the 9% ceiling on increases to the grid. In others, negotiations ceased as Boards took the position that section 13 of the legislation extended the collective agreement thus **removing the obligation to bargain**. This issue ultimately was placed before the Commission in the form of an application by the secondary school teachers employed by the Durham Board of Education for a determination with respect to good faith bargaining.

Counsel for the Board filed papers with the Commission prior to the hearing challenging the jurisdiction of the Commission to hear this matter while Counsel for the teachers (O.S.S.T.F., District 17) took an opposing view. As a result, the fundamental issue was the effect of the **Inflation Restraint Act** on the Commission's jurisdiction and duties. A hearing was held and a determination on the issue of jurisdiction was made.

In its decision the Commission determined that the Inflation Restraint Act must be viewed as a consistent whole and that its various provisions, particularly sections 13, 14 and 15 must be logically reconciled. This exercise led the Commission to the opinion that the intent of the **Inflation Restraint Act** was to restrain wages in the public sector within certain limits, and to prohibit sanctions, but to allow a continuation of normal labour-management negotiations on non-monetary matters. Therefore, the Commission determined:

... it is our opinion that the **Inflation Restraint Act** does not terminate the statutory duties imposed on the Commission under Section 60(1)(f) of the **School Boards and Teachers Collective Negotiations Act**.

The determination was appealed by the Durham Board of Education to the Supreme Court of Ontario for judicial review. On October 24, 1983 the Divisional Court of the Supreme Court of Ontario unanimously dismissed the application of the Durham Board of Education.

On November 14, 1983 in the Court of Appeal the Durham Board of Education applied for and was granted leave to appeal this decision. The case was heard in May 1984. During the reporting year (October 1984) the Court of Appeal in a unanimous decision upheld the Commission's determination.

In the current year, the dynamics of teacher-board bargaining were further changed with the introduction of **An Act to Provide for the Review of Prices and Compensation in the Public Sector and for an Orderly Transition of the Resumption of Full Collective Bargaining** (Bill 111). The Act provided for the return to normal forms of dispute resolution but at the same time changed the parameters of collective bargaining. The Treasurer, in introducing the legislation, indicated the province would limit funding for all public sector compensation increases to provide an average increase of 5 percent. Criteria for increases referred to in the Act were published in **The Ontario Gazette** with a recommended range for salary increases of zero to five percent. This, plus the Treasurer's statement concerning the 5 percent increase in transfer payments provided narrow boundaries to the parties in the public sector negotiations for the 1984-85 bargaining year.

III THE COMMISSION

— MEMBERS AND ORGANIZATIONAL STRUCTURE

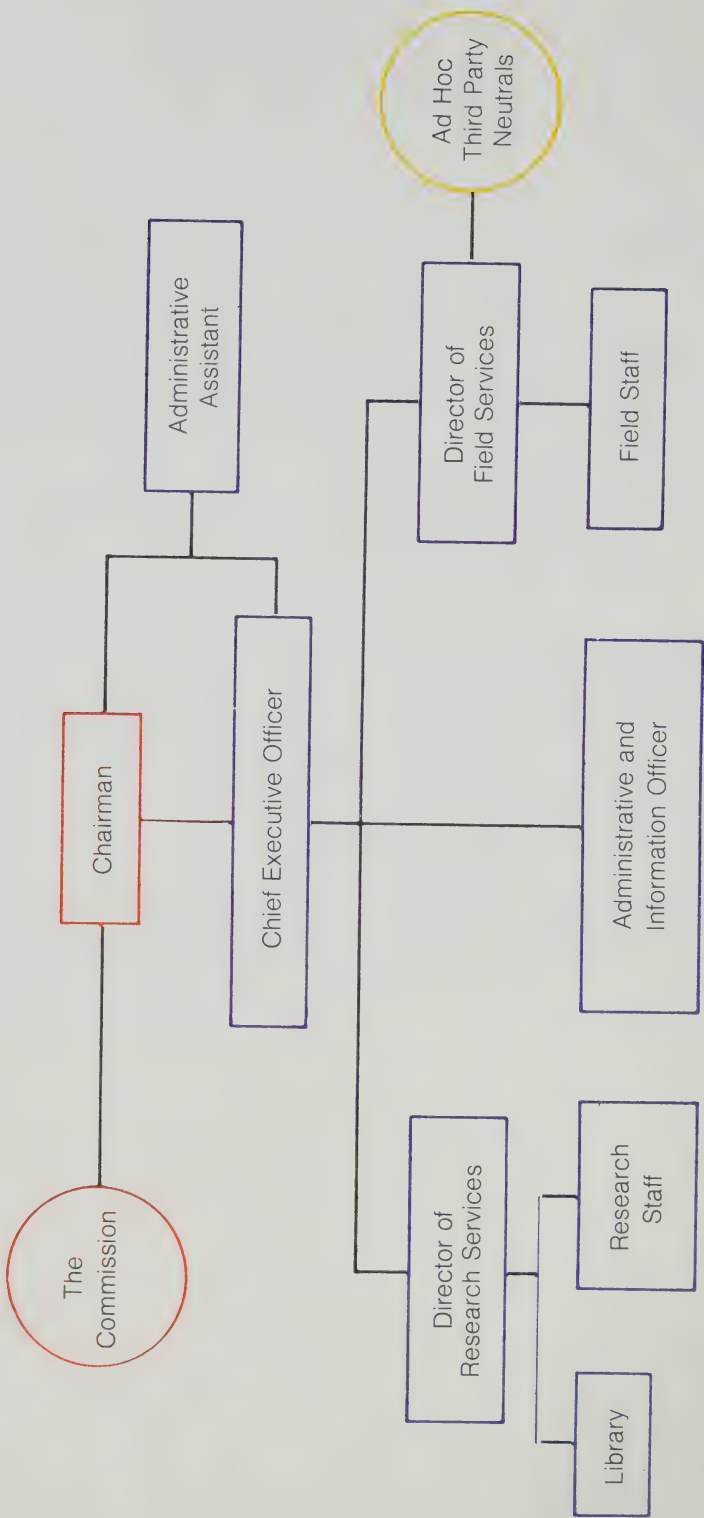
The Education Relations Commission is composed of five members appointed by the Lieutenant Governor-in-Council. The term of appointment may range from one to three years and each member of the Commission is eligible for reappointment upon the expiration of the term. Dr. Bryan Downie was first appointed Chairman of the Commission on November 1, 1979 and was reappointed for a second term on October 31, 1982. T. Gary O'Neill was appointed Vice-Chairman on December 22, 1982. Louise D. Binder was appointed a Commissioner in February of 1983, Donald S. Felker in February of 1983 and Harvey H. Nightingale in October of 1982. A biographical sketch of each of the Commissioners is contained in Appendix A.

The Commission has a permanent staff of 16 individuals. In order to oversee bargaining in the more than 230 sets of negotiations which fall under its jurisdiction, the Commission must rely on external human resources. Therefore, in addition to its permanent staff, the Commission utilizes a cadre of more than seventy individuals who are appointed on a contractual basis as third party neutrals. This arrangement has allowed the Commission to attract and utilize some of the more able third parties in the province.

All appointments and all major decisions and determinations are made by the Commission, per se. The day-to-day operations of the Commission, however, are managed by a Chief Executive Officer. The operations of the ERC are divided into two major functions — Field Services and Research Services. (An organizational chart is provided in Figure 1.) Briefly, Field Services monitors negotiation activity at the local level, while Research Services provides data to all parties in negotiations.

The small size and the extensive experience of its permanent staff, combined with the high calibre of its part-time people, has allowed the Commission to quickly and effectively respond to the needs of the parties and the public.

ORGANIZATION CHART: THE EDUCATION RELATIONS COMMISSION



IV NEGOTIATIONS 1984-85

1. The Parties

The parties to negotiations are the 2,200 trustees and the 106,000 teachers who represent and work in the approximately 200 school boards in the province. In general terms, there are two kinds of school boards. The Boards of Education (76) are divided into elementary and secondary panels. The Roman Catholic Separate School Boards (48) provide Catholic education in the province.. In many cases, these boards are geographically different from each other. A second difference is illustrated by the fact that the R.C.S.S. Boards do not have a secondary panel. Provincial funding for the R.C.S.S. Boards is provided to grade 10 only. Such Boards offering grades 11, 12 and 13 are actually operating private schools. This, however, will no longer be the case. In June 1984 the Premier announced the extension of funding to Secondary Schools in RCSS Boards.

Both the trustees and the teachers are organized in a group of organizations under a parent body. For the teachers, the parent body is the Ontario Teachers' Federation (OTF). This organization is made up of representatives of:

1. The Federation of Women Teachers' Association of Ontario (FWTAO);
2. The Ontario Public School Teachers' Federation (OPSTF);*
3. The Ontario Secondary School Teachers' Federation (OSSTF);
4. The Ontario English Catholic Teachers' Association (OECTA);
5. L'Association des enseignants franco-ontariens (AEFO).

Bargaining rights reside with the branch affiliates of the above bodies.

The trustee parent organization is the Ontario School Trustees' Council (OSTC) which is composed of representatives from:

1. The Association of Large School Boards of Ontario (ALSBO);
2. The Ontario Public School Trustees' Association (OPSTA);
3. The Ontario Separate School Trustees' Association (OSSTA);
4. L'Association francaise des conseils scolaires de l'Ontario (AFCSO);
5. The Northern Ontario School Trustees' Association (NOSSTA).

*Changed from Ontario Public School Men Teachers' Federation at annual conference in August, 1982. (OPSMTF)

During 1984-85, negotiations covering the terms and conditions of employment for approximately 100,000 teachers took place. The number of school boards and the branch affiliates, by type, and the number of teachers employed by those boards are summarized in Table 1.

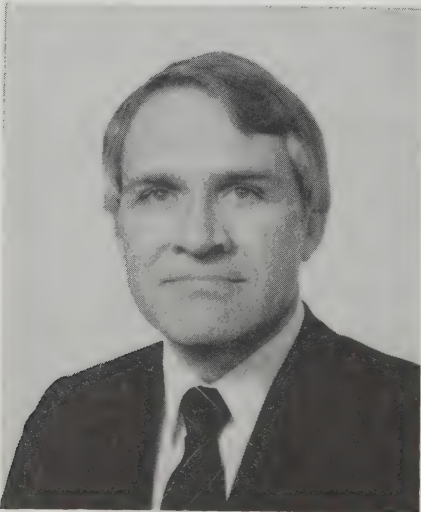
MEMBERS OF THE COMMISSION



Chairman —

BRYAN M. DOWNIE, B.A. (Concordia, Minnesota), M.B.A. (University of Chicago), Ph.D. (University of Chicago).

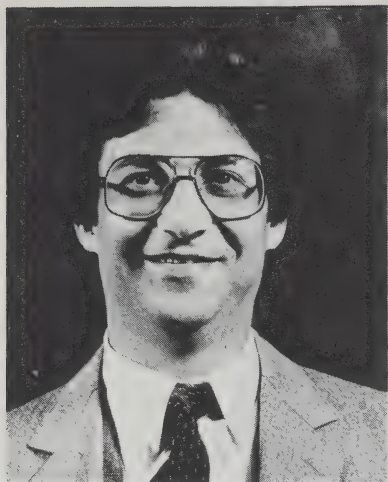
Dr. Downie, (Professor, Industrial Relations and Public Policy, Queen's University) has served as a fact finder, mediator, and interest arbitrator. He has published extensively in the area of labour relations and his book, *Collective Bargaining and Conflict Resolution in Education* examines the activities and policies of the Education Relations Commission during its formative years. He is Canadian Director and a Board member of the Society of Professionals in Dispute Resolution, an association of third party neutrals based in Washington, D.C. and is currently President of the Canadian Industrial Relations Association and a member of the Board of Directors of the Social Science Federation of Canada.



Vice-Chairman —

T. GARY O'NEILL, B.A. Sc. (University of Toronto), M.Eng. (Carleton), LL.B. (University of Ottawa)

Mr. O'Neill is a member of an Ottawa law firm who is knowledgeable in both dispute resolution and the issues in the education sector of Ontario. Since 1977, Mr. O'Neill has served as a third-party on numerous occasions.



Commissioner —

HARVEY M. NIGHTINGALE, B.A. (University of Western Ontario), M.Ed. (University of Toronto), M.A. (York University).

Mr. Nightingale served as Director of Economic and Legislative Services for the Ontario Trustees' Council from 1973 to 1981. In this position he was responsible for both developing and articulating the trustees' position on various educational issues, including collective bargaining — the School Boards and Teachers Collective Negotiations Act.

Mr. Nightingale is Executive Director of the Ontario Nursing Home Association.



Commissioner —

LOUISE D. BINDER, B.A. (University of Toronto), LL.B. (Queen's University).

Ms. Binder is Co-ordinator of Labour Relations with Gulf Canada Products Limited. Following graduation from law school she practised labour law for management with a Toronto law firm. Since 1977, she has been in private sector Employee Relations.

Ms. Binder is also a member of the Ontario Public Service Labour Relations Tribunal.

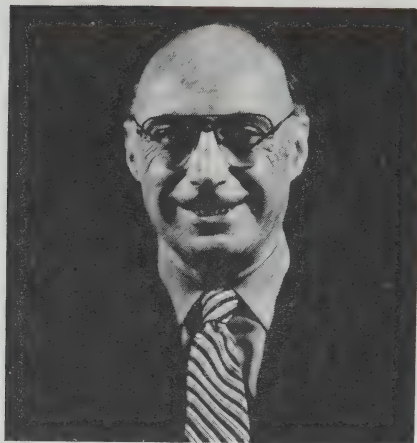


Commissioner —

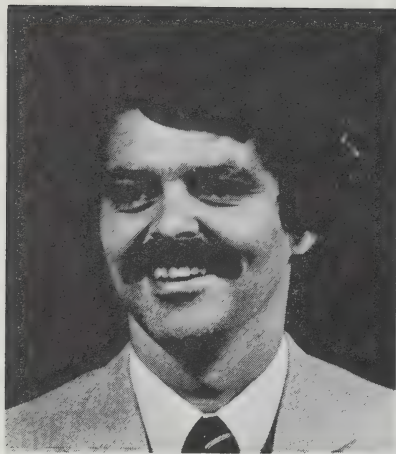
DONALD S. FELKER, B.Sc. (University of Ottawa), M.Ed. (University of Toronto), Ed.D. (University of Pennsylvania).

Dr. Felker, a self-employed educational consultant, has served as an appointee to both grievance and arbitration boards. He spent thirteen years in the Ontario Public School System as a Teacher, Vice-Principal and Principal and from 1968 to 1973, he served as General Secretary for the Ontario Secondary School Teachers' Federation. Dr. Felker is a Fellow of the Ontario Teachers' Federation and a Life Member of the Ontario Secondary School Teachers' Federation.

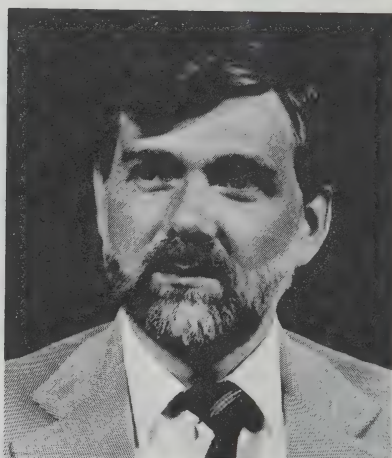
**SENIOR STAFF OF
THE COMMISSION**



ROBERT H. FIELD
Chief Executive Officer



CRAIG A. CRAWFORD
Director of Research Services



EDWARD M. AIM
Director of Field Services

Table 1 School Boards, Branch Affiliates, and Teachers in Ontario, 1984-85

Board Classification	Number of Boards	Number of Branch Affiliates				
		FWTAO	OPSTF	OECTA	AEFO	OSSTF
Boards of Education	76*	76	76	-	25	76
Metro. Toronto School Board*	1	1	1	-	-	-
County and District Combined Roman Catholic Separate School Boards	48	-	-	47	40	-
Other Public School Boards	42	4	7	-	-	-
Other Separate School Boards	13	1	1	5	4	-
Secondary School Boards	1	-	-	-	-	1
Boards on Crown Lands, Hospital and Hydro Centres and the Provincial Schools Authority	23	8	8	-	4	2
Total	204	90	93	53	73	79
Number of Teachers	105,989	30,241	14,419	20,966	5,106	35,257

*The Metropolitan Toronto School Board, which operates schools for the trainable retarded, does not operate elementary and secondary schools as such; however, its teachers are members of the elementary school branch affiliates, FWTAO and OPSTF.

2. Renewals under the Act

It should be noted that the number of negotiations during any given year will vary because of the existence of multi-year agreements. That is, under ordinary circumstances not every collective agreement comes up for renewal every year. As noted in Table 2, however, 227 of 228 jurisdictions were subject to negotiations in 1984-85. This was due to expiry of the **Inflation Restraint Act** (previously discussed). As a result the level of negotiating activity in 1984-85 was heavier than any previous year including the first year following the inception of Bill 100.

Table 2 Status of Negotiations, 1984-85

Board Classification	Not Subject to Negotiation*	Subject to Negotiation
Boards of Education — Elementary	-	76
Board of Education — Secondary	-	76
County and District Combined Roman Catholic Separate School Boards	1	47
Other School Boards	-	28
Total	1	227

*Concluded a multi-year settlement during a previous year.

3. Third Party Appointments

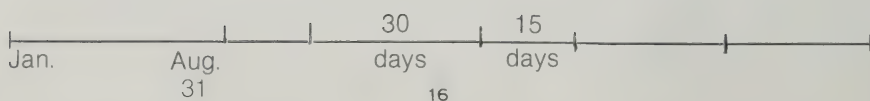
Figure 2 sets forth the possible stages in negotiations under Bill 100. The Act specifies that all collective agreements expire on August 31. If there are to be negotiations to renew the collective agreement, one of the parties is required to give its intent to negotiate to the other party and to the Commission in January of that year.

Negotiations between the parties typically occur from January to August without intervention from the ERC but if a settlement has not been reached by August 31, a mediator and/or a fact finder is appointed by the Commission to assist the parties. While mediation is voluntary, a fact finder must be appointed if an agreement has not been reached by August 31.

While it is possible for mediation and fact finding to occur prior to August 31, the more typical pattern is that portrayed in Figure 2. If a fact finder is appointed he/she has 30 days to hold a hearing with the parties and file a written report with the Commission and the parties which remains confidential for a 15 day period. If no settlement is reached during this 15 days, the report is released to the public and the teachers are in a position to request Commission-supervised votes on acceptance or rejection of the school board's last offer received and the matter of strike.

Figure 2.
Negotiation Stages under Bill 100

Pre-Fact Finding Negotiations	Fact Finding	Closed Negotiation Period	Last Offer Vote	Strike Vote
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The number of fact finder and mediator appointments required in 1984-85 is of concern to the Commission and is discussed below. Two further steps in the negotiation process — last offer and strike votes are discussed at a later point in this report.

(a) Fact Finding

Fact finding affords an opportunity for the parties to clarify and narrow the differences which exist between them in order to reach a settlement when the collective agreement expires. As noted, the process becomes mandatory once August 31 has passed (the contract expiry date in all teacher/school board collective agreements). Further, it is a necessary procedure under the Act before teachers can take strike action or before a school board can initiate a lock-out. The fact finding process also recognizes the public's right to know the substantive and procedural issues of a dispute as well as each party's position prior to any possible interruption to the normal school program.

The Commission may appoint a fact finder at any time during negotiations either upon the request of one or both parties or if the Commission deems that the parties are at an impasse and would benefit from such assistance. The fact finder, a third party neutral, investigates the particular local situation and then files a written report with the Commission. A time limit of thirty days is established in the Act for the fact finder to meet with the parties, examine their written submissions, listen to oral arguments, write the report and submit it to the Commission. The Commission, in turn, delivers the report to the parties.

The report must set out those matters upon which the parties have agreed as well as those upon which they have not agreed. A fact finder may make recommendations regarding any matter which he or she feels is relevant and on any of the items in dispute. The fact finder's recommendations, while not binding upon the parties, often narrow their differences, or are accepted by the parties in whole or in part.

Once the parties receive the report, they have a 15-day period in which to reach a settlement before the report is made public. If an agreement is not negotiated during this time, the report must be made public by the Commission. Should the parties reach settlement at any time during the fact finding, the process is automatically terminated.

It is clear from experience in the years since the passage of the Act that fact finding has the potential to assist and, in many cases, actually has assisted the parties in reaching negotiated settlements. To date, the Commission and the parties have generally found it to be a useful process which has worked reasonably well. At the same time, there were observations made before the Matthews Commission that not only were negotiations far too long but also that in some cases fact finding had contributed to the delay. There were also submissions that fact finding in some instances was ineffective and perhaps over-utilized by some of the parties.

Under any labour legislation (including Bill 100), there is a very real danger that a process such as fact finding will be ignored or misused by the parties, thereby weakening the philosophical thrust of the Act and undermining its effectiveness. As a consequence, the Commission has encouraged the parties to utilize fact finding only if absolutely necessary. The preference, wherever possible, is to settle prior to the point when, under the Act, the Commission must appoint a fact finder. Second, the Commission has attempted to strengthen the fact finding process by trying to convey to the parties and to its third party neutrals that if a settlement cannot be reached without fact finding, the ensuing process should be one out of which a meaningful fact finder's report will emerge. This report would clearly and concisely address the issues in dispute and, if at all possible, present to the parties at least the broad outlines of a settlement. Finally, during the past few years, the Commission has recruited and appointed individuals with extremely high qualifications and experience in labour-management and/or teacher/school board relations; individuals who also have the expertise to write outstanding and effective fact finding reports.

Against this background the results for the 1984-85 year are troubling. Table 3 lists the number of fact finder appointments for this year. Out of 227 sets of negotiations 57 percent or 130 required a fact finder appointment. This represents one of the highest appointment rates since the inception of the Commission.

Table 3 Fact Finder Appointments, Reports Released to Parties and Reports Made Public, 1984-85

Board Classification	Fact Finder Appointments	Reports Released to Parties	Reports Made Public
Boards of Education			
— Elementary	42 ¹	30	25
Board of Education			
— Secondary	51 ²	48	40
County and District Combined			
Roman Catholic Separate School Boards	26 ³	25	22
Other School Boards	9	5	5
Total	130* ^{1,2,3}	108	92

1. Includes Metropolitan Toronto Elementary Central and Metropolitan Toronto Trainable Retarded.

2. Does not include Hamilton Secondary (AEFO), Simcoe Secondary (AEFO)

3. AEFO and OECTA counted as one in Stormont, Dundas and Glengarry R.C.S.S.

Last year's annual report contained the following portent with respect to possible problems in 1984-85:

Because of the hiatus in bargaining (due to the **Inflation Restraint Act**) one of the dangers now facing collective bargaining in Ontario education is that, in future negotiation rounds, third parties will be over-utilized by the parties. In many jurisdictions the parties have not had meaningful negotiations for two years and therefore 1984-85 negotiations are likely to be contentious and lengthy.

In this sense the high number of appointments was not a surprise. That is, the 1984-85 results may simply be the result of bargaining inactivity. On the other hand, the rate may be an indication that the legislation should be examined once again.

The Commission did experiment with the fact finding process in the 1984-85 year. As noted, the appointment of a fact finder to a particular set of negotiations is not required by the legislation until the expiry of the collective agreement on August 31, of the year in which the intent to negotiate was filed. Fact finding appointments are normally made during the September to December period in any given year. During 1984-85, the Ontario Secondary School Teachers' Federation encouraged its local affiliates to take a pro-active position and to request fact finding early in the negotiating process before the mandatory date. The Education Relations Commission appointed fact finders during the period April to August 1984 (rather than September to December) where it was satisfied that a state of impasse had been reached.

It was the hope of the Commission that this approach would shorten the length of negotiations. The Matthews Commission had made a recommendation similar to this in 1980 again under the assumption that this would shorten the length of negotiations. The Matthews Commission made the following recommendation.

Recommendation #27

The Commission recommends that provisions for fact finders remain in Bill 100 but be amended to provide:

- (a) That fact finding may be requested by either party at any time after 75 days from the date of notice to negotiate and that the Education Relations Commission shall appoint a fact finder as soon as possible.

The ERC, therefore, monitored very closely those jurisdictions where fact finders were appointed early to ascertain the effect of "pro-active" fact finding on both the length of negotiations and the number of stages in the process used by each jurisdiction.

Table 4 Results of Early (Pro-Active) Appointment of Fact Finders in Secondary School Negotiations 1984-85

Secondary School Jurisdiction	Date of Appointment of Fact Finder in 1984	Average Length of Negotiations for this jurisdiction prior to 1984 (in months)	Length of Negotiations for 1984/86 (in months)	Average Stage Score** for this jurisdiction prior to 1984/85 negotiating year	Stage Score for this jurisdiction during 1984/85 negotiating year
Central Algoma	June 6	10.7	20	7.85	13
Frontenac	April 12	9.75	5	5.0	1
Grey	May 14	7.71	21*	4.5	19
Halton	August 27	9.75	10	5.0	13
Hamilton	July 3	10.66	20	3.85	20
Hearst	August 27	9.28	18	3.52	12
Kapuskasing	August 27	10.6	12	5.0	11
Kent	June 6	10.14	18	4.71	13
Kirkland Lake	May 30	13.2	9	8.0	10
Lanark	May 29	9.2	12	3.12	12
London	June 1	10.0	9	4.16	15
Michipicoten	June 27	9.28	18	1.42	18
Muskoka	June 6	10.33	16	3.66	20
Peel	July 3	13.2	14	9.8	18
Sault Ste. Marie	July 9	11.33	7	4.0	7
Simcoe	August 20	11.14	16	4.7	12
Sudbury	April 10	11.12	12	6.25	16
West Parry Sound	May 29	11.14	9	3.42	12

* Grey was not settled at time of report

**** Stage Score:**

In an effort to set up a hierarchy of the various stages in the process to which the parties might have preceded, E.R.C. staff developed a framework to measure the number of stages utilized by the parties in each round of negotiations. A score of 0 indicates no third party involvement. A high score of 20 indicates the use of mediators before and after fact finding, fact finding and the supervising of both "last offer" and "strike" votes.

The results of pro-active fact finding on each jurisdiction are contained in Tables 4, 5 and 6.

The results tend to indicate that the early appointment of a fact finder did not have a positive impact on either the length of negotiations or the number of stages utilized by the parties. In fact, overall, pro-active fact finding would appear to have had a negative effect.

As indicated in Table 4, of the 18 jurisdictions with pro-active fact finding only 5 had shorter negotiations than in past rounds in terms of months and only one in terms of stages utilized.

It is true, of course, that the 1984-85 round was a difficult one in general. Tables 5 and 6, however, indicate that on average negotiations in the pro-active jurisdictions were substantially longer than those in other secondary school jurisdictions, again both in terms of months and stages utilized.

While these results are not definitive and a very small sample of cases was involved, it does appear that early fact finding has little positive impact, on the length of negotiations.

Table 5 Average Length of Negotiations of Pro-Active Jurisdictions Compared with the Remaining Secondary School Jurisdictions where no Fact Finder was Appointed or where Fact Finder was Appointed after August 31, 1984		
		Average Length of Negotiations in months
Pro-active jurisdictions	(18)	20.66
Other secondary school jurisdictions	(58)	11.56
Secondary School Jurisdictions where no fact finder was appointed	(26)	8.3
Secondary School Jurisdictions where fact finder appointed after August 31	(32)	14.25

Table 6 Average "Stage Scores" of Pro-Active Jurisdictions Compared with the Remaining Secondary School Jurisdictions where no Fact Finder was Appointed or where Fact Finder was Appointed after August 31, 1984		
		Average Stage Score
Pro-active jurisdictions	(18)	13.44
Other secondary school jurisdictions	(58)	7.34*

(B) Mediation Appointments

Mediators, or "persons to assist" as they are referred to under Section 13 of the Act, can be appointed at any time, either at the direction of the Commission or, with Commission concurrence, at the request of one or both parties. Table 7 sets forth the number of mediators appointed in 1984-85 and in each bargaining round since the inception of the Act. Mediators were appointed in 96 situations (i.e., in **47** percent of the cases). This represents the largest number of mediators appointed in absolute and percentage terms in the history of the Commission.

Table 7 Appointment of Mediators, 1975-76 to 1984-85

	Total number of negotiations conducted	Mediators appointed Number	Percent of Total Number of negotiations conducted
1975-76	205	51	25.0
1976-77	189	38	20.1
1977-78	210	58	27.6
1978-79	207	72	34.8
1979-80	180	63	35.0
1980-81	132	35	27.3
1981-82	168	47	28.0
1982-83	173	50	28.9
1983-84	178	5	2.8
1984-85	227	96	42.3

Table 8 Sets forth the assignment of mediators by board classification.

Table 8 Assignment of Mediators, 1984-85

Board Classification	No. of Situations Negotiating	No Mediation	Mediation Only	Mediation Pre Fact Finding Only	Mediation Post Fact Finding Only	Mediation both Pre and Post Fact Finding
Board of Education — Elementary	76	53	5	1	16	1
Board of Education — Secondary	76	28	10	12	18	8
County & District Combined Roman Catholic Separate	47	28	4	2	12	1
Other School Boards*	28	22	3	1	2	—
Total	227	131	22	16	48	10

*Includes Metro Toronto Central & Metro Trainable Retarded

4. Supervised Votes: Last Offer, Strike and Ratification

Prior to any strike activity, the teachers must first request (in writing) the Board's last offer concerning all matters agreed upon and all matters remaining in dispute. A secret ballot vote on the Board's last offer must then be conducted under the Commission's supervision. If the teachers reject this offer, a second secret ballot vote to determine whether the teachers favour a strike may then be held, again under the supervision of the Commission. Any ratification vote ending a strike also must be supervised by the Commission.

Table 9 contains the number of last offer, strike and ratification votes conducted by the Commission over its ten year history including the 1984-85 round. A total of 67 votes — 39 last offer, 23 strike and 5 ratification — were supervised by the Commission. This constitutes the largest number of votes supervised since the inception of the Commission.

Therefore, these data too are indicative of the fact that negotiations were extremely difficult and lengthy in 1984-85.

Table 9 Supervised Board's Last Offer, Strike and Ratification Votes, 1975-76 to 1984-85											
Vote	75-76	76-77	77-78	78-79	79-80	80-81	81-82	82-83	83-84	84-85	Total
Board's Last Offer Votes											
Elementary	—	—	2	1	1	—	—	—	—	3	
Secondary	15	5	8	9	12	1	7-1	4	—	23	
R.C.S.S.	—	5	5	3	12	3	5-4	—	—	13	
Other	—	—	—	1	1	1	—	—	—	—	
Total	15	10	15	14	26	5	12	4	—	39	140
Strike Votes											
Elementary	—	—	1	1	1	—	—	—	—	—	
Secondary	15	4	7	4	9	1	5	1	—	16	
R.C.S.S.	—	1	4	2	7	2	5-4	1	—	7	
Other	—	—	—	1	1	—	—	—	—	—	
Total	15	5	12	8	18	3	10	1	—	23	95
Ratification Votes											
Elementary	—	—	—	—	2	—	—	—	—	—	
Secondary	—	1	5	2	4	2	3	—	—	2	
R.C.S.S.	—	—	1	—	2	1	2	—	—	3	
Other	—	—	—	—	—	—	—	—	—	—	
Total	—	1	6	2	8	3	5	—	—	5	30
Total Vote by Year	30	16	33	24	52	11	27	5	—	67	265

Note: Boards of Education within Metropolitan Toronto counted individually

¹ Includes separate votes conducted by O.S.S.T.F. and A.E.F.O. in Simcoe.

² Includes vote taken Northumberland and Newcastle, but not counted as Branch Affiliate, in supervised vote, voted to accept the last offer received from the school board.

³ Includes two (2) in West Parry Sound as first vote resulted in rejection.

⁴ Includes separate votes conducted by O.E.C.T.A. and A.E.F.O. in Carleton R.C.S.S.

5. Strikes, Lock-outs and School Closings

Out of the 227 sets of negotiations referred to in Table 2, seven experienced teacher sanctions (see Table 10). There were strikes in the secondary school panels in Muskoka, Hamilton, Wellington County and Grey County. The strikes in Wellington and Grey started in September of 1985 and thus fall outside the reporting year. The sanction in Muskoka lasted 30 instructional days and ended in a negotiated settlement. There were shorter strikes in Stormont RCSS, Sudbury RCSS and York Region RCSS.

<div> Table 10 Strikes, Lock-Outs and Closing of Schools, 1984-85 September 1, 1984 to August 31, 1985 </div>						
Board	Number of Schools	Number of Teachers in Branch Affiliates	Number of Students Affected	Type of Sanction	Duration of Sanction	Final Settlement
Muskoka Secondary	3	154	2,171	Full Withdrawal	30 Inst. Days	1st year negotiated with Mediation assistance 2nd year to be arbitrated
Hamilton Secondary (OSSTF)	19	994	14,551	Work-to-Rule, Full Withdrawal	39 Inst. Days	Negotiated with Mediation assistance
Stormont RCSS (AEFO)	23	237.3	4,269.5	Full Withdrawal	9 Inst Days	Negotiated with Mediation assistance
Sudbury RCSS	80	1,009	17,946	Full Withdrawal	21 Inst. Days	Mediation-Arbitration
York Region RCSS	42	867	15,935	Work-to-Rule	22 Inst. Days	Negotiated with Mediation assistance

The strike in Hamilton by O.S.S.T.F. lasted 39 school days and had not been resolved by the end of June 1985. An unusual aspect of the sanction arose from the first 10 days which took the form of "work-to-rule". (The secondary school teachers employed by the Board who are members of L'Association des Enseignants Franco Ontariens, Hamilton Secondary Unit ratified the terms of a collective agreement and were not involved in the sanction.) During the "work-to-rule" sanction the teachers shortened the school day to a period of time less than that required by Ministry of Education regulations. The board took the view that the teachers had exceeded "work-to-rule" and therefore it could not legally pay them for the 10 day "work-to-rule" period when, under the Board's interpretation, the teachers were on strike. Both parties filed requests with the Commission for determinations that the other party was not bargaining in good faith. Preliminary attempts by the staff of the Commission failed to resolve the dispute.

On August 7, 1985 the Chief Executive Officer invited both parties to the offices of the Commission in an effort to resolve the dispute regarding payment for those days when the "work-to-rule" was in effect. The mediator appointed by the Commission was successful in reaching an agreement on this particular issue. Both parties withdrew their applications for determinations and the board agreed to discontinue an action it had commenced in the Supreme Court of Ontario. The Board agreed to advance four (4) days' pay to the teachers and to submit the dispute to binding arbitration. The parties also agreed that in the event that either party elects to refer the arbitrator's decision to the courts for judicial review then they shall give notice to the other party of such intention within fifteen (15) days of the receipt of the arbitrator's decision. The parties further agreed that if such notice is not given within the time stated then the matter shall not be referred to the courts for judicial review.

Once the "work-to-rule" problem was resolved mediation continued, the parties negotiated a collective agreement, and the 39 day sanction was ended before school commenced on September 3, 1985.

A complete record of sanctions since the passage of the Act is included in Appendix B.

6. Voluntary Binding Arbitration/Final Offer Selection

At any time during negotiations, the parties can mutually agree to choose one of two options of third party resolution: voluntary binding arbitration or final offer selection. If a negotiated settlement is reached at any time during these procedures, the process is automatically terminated. As indicated in Table 11 voluntary binding arbitration was used in just 3 cases and final offer selection was not utilized by the parties at all. The following is a description of the process involved in each of these options.

(a) Voluntary Binding Arbitration

Under the voluntary binding arbitration procedure, the parties may refer all matters remaining in dispute to either an arbitrator or a board of arbitration. Within 7 days of the appointment of the arbitrator or chairman of the arbitration board each party must submit to the other party and to the arbitrator / chairman, written notice of all matters agreed upon during negotiations and all matters remaining in dispute. The arbitrator or board of arbitration is responsible for determining procedures which give both parties full opportunity to present their evidence and make their submissions.

Table 11 **Agreements Reached by Voluntary Binding Arbitration or Final Offer Selection, 1984-85**

Board Classification	Agreements Reached by Voluntary Binding Arbitration	Agreements Reached by Final Offer Selection
Boards of Education		
— Elementary	2	—
Board of Education		
— Secondary	0	—
County and District		
Combined Roman Catholic Separate School Boards	1	—
Other School Boards	—	—
Total	3	—

Within 60 days of the appointment of the arbitrator / chairman, or such longer period of time as the two parties may agree to, the arbitrator or board of arbitration must provide the parties with a written report of his / its decision. The decision of the arbitrator or board of arbitration is final and binding and the parties are required, within 30 days following receipt, to incorporate within a signed agreement the matters agreed to in negotiations and the decision rendered through arbitration.

(b) Final Offer Selection

Under this resolution procedure, each party's final position concerning the items remaining in dispute, together with any supporting evidence, is presented to a selector and the other party within 15 days of appointment of the selector. The parties may then provide written responses to the other party's position and the selector may hold a hearing.

Within 15 days of the hearing (or notice from the parties to dispense with the hearing), the selector must choose one party's final offer in its entirety. This offer is then incorporated into an agreement which also includes those items agreed to by the parties during negotiations.

7. Grievance Arbitration

Grievance procedure clauses in some collective agreements specify that the Commission be asked to appoint a single arbitrator or chairman of an arbitration board to resolve a grievance as the final and binding step of the procedure.

During 1984-85, the Commission made 8 such appointments, 3 were chairmen of arbitration boards, and 5 were single arbitrators (see Table 12).

Table 12 **Appointments Concerning Grievance Arbitration,
1984-85**

Board Classification	Number of Appointments By ERC	Nature of Appointments
Boards of Education — Elementary	0	
Board of Education — Secondary	3	2 Chairmen 1 Single Arbitrator
County and District Combined Roman Catholic Separate School Boards	5	4 Single Arbitrators 1 Chairman
Other School Boards	—	—
Total	8	

8. Determination of Good Faith Bargaining

Several complaints of failure to bargain in good faith were before the Commission during 1984-85 (see Table 13). Of the 17 cases before the Commission, 5 arose from the conflicting interpretation of Bill 179 and its effect on Bill 100. Fourteen of the seventeen charges have been withdrawn. One of the charges (O.S.S.T.F. versus the Frontenac County Board of Education) was dismissed by the Commission after hearing the case and two are pending as of the end of the reporting period.

Table 13 **Good Faith Bargaining Charges, 1984-85**

Complainant	Respondent	Disposition
Branch Affiliates of F.W.T.A.O. & O.S.S.T.F.*	Sault Ste. Marie Board of Education	Withdrawn
Branch Affiliates of O.S.S.T.F. & A.E.F.O.*	Ottawa Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.** (2 complaints filed)	Durham Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.** (2 complaints filed)	Bruce County Board of Education	Withdrawn

Branch Affiliate of O.S.S.T.F.**	East York Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.**	Red Lake Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.**	Kent County Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.	Muskoka Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.	Huron County Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.	Frontenac County Board of Education	Dismissed
Sudbury District RCSS Board	Branch Affiliates of A.E.F.O. and O.E.C.T.A.	Withdrawn
Branch Affiliate of A.E.F.O. and O.E.C.T.A.	Durham Region RCSS Board	Pending
Branch Affiliate of O.S.S.T.F.	Perth County Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.	Board of Education for the City of Hamilton	Withdrawn
Board of Education for the City of Hamilton	Branch Affiliate of O.S.S.T.F.	Withdrawn
Branch Affiliate of O.S.S.T.F.	Timiskaming Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.	Sault Ste. Marie Board of Education	Pending

*Initiated during the 1983-84 year.

**Initiated during 1982-83 year.

9. Advisements

During the 1984-85 negotiation round the Commission issued no determinations concerning its obligation to advise the Lieutenant Governor in Council when in its opinion the continuation of a strike, lock-out, or closing of schools would place in jeopardy the successful completion of courses of study by students. The two latest strikes which took place during the reporting year in Muskoka and Hamilton were resolved through negotiations between the parties with the assistance of the ERC and at a point well short of a jeopardy situation.

10. Duration of Agreements and the 1985-86 Round

In summary the 1984-85 round was notable for the large number and inordinate length of negotiations and for the over-utilization of third party assistance by the parties.

The 1985-86 negotiation round, too, will see a high level of activity. Relatively few collective agreements in 1984-85 were two-year agreements (see Table 14) so that approximately 180 sets of negotiations will take place in 1985-86.

Table 14 **Duration and Termination Dates of Settlements
Concluded in 1984-85***

Board Classification	Not Settled	1 Year Aug. 31/85	2 Years Aug. 31/86	3 Years Aug. 31/85
Boards of Education				
— Elementary	1	59	15	1
Boards of Education				
— Secondary	2	56*	17	1
County and District				
Combined Roman Catholic Separate School Boards	—	40**	—	
Other School Boards	—	26***	2	—
Total	3	181	41	2

* Two agreements, Halton Secondary and Kapuskasing Secondary, are two-year agreements running from September 1-83 to August 31-85

** Kapuskasing RCSS is a two-year agreement running from September 1-82 to August 31-85. Stormont, Dundas and Glengarry R.C.S.S. (OECTA-Aug. 31-85; AEFO-Aug. 31-86).

*** Includes Connell and Ponsford, a two-year agreement running from September 1-83 to August 31-85

V STAFF ACTIVITIES

1. Field Services

(a) Monitoring of Negotiations

The Commission maintains its awareness of negotiations between teachers and school boards through its Field Services staff. The two Field Officers under the direction and supervision of the Director of Field Services are responsible for monitoring the negotiations in all jurisdictions in the Province. This regular contact, by both on-site visits and phone enables the individual Field-Service Officer to gain an understanding of emerging issues in negotiations and to become thoroughly familiar with the parties and important developments at the local level. In turn, the parties become better acquainted with the Commission's representatives and more knowledgeable about the Act and the Commission's policies, procedures and resources. Through this exchange, progress reports are gathered and procedures and requirements under the Act are clarified. The Commission's monitoring activity across the province during the past year is presented on the maps illustrated below.

Maintaining an intimate awareness of negotiations between branch affiliates* and school boards is particularly advantageous when appointments of third party neutrals by the Commission become necessary. In making judgments regarding the appropriateness or timing of an appointment and/or the individual to be named as mediator or fact finder in any given area, the Commission has been able to rely on the first-hand information and advice of its Field Services staff.

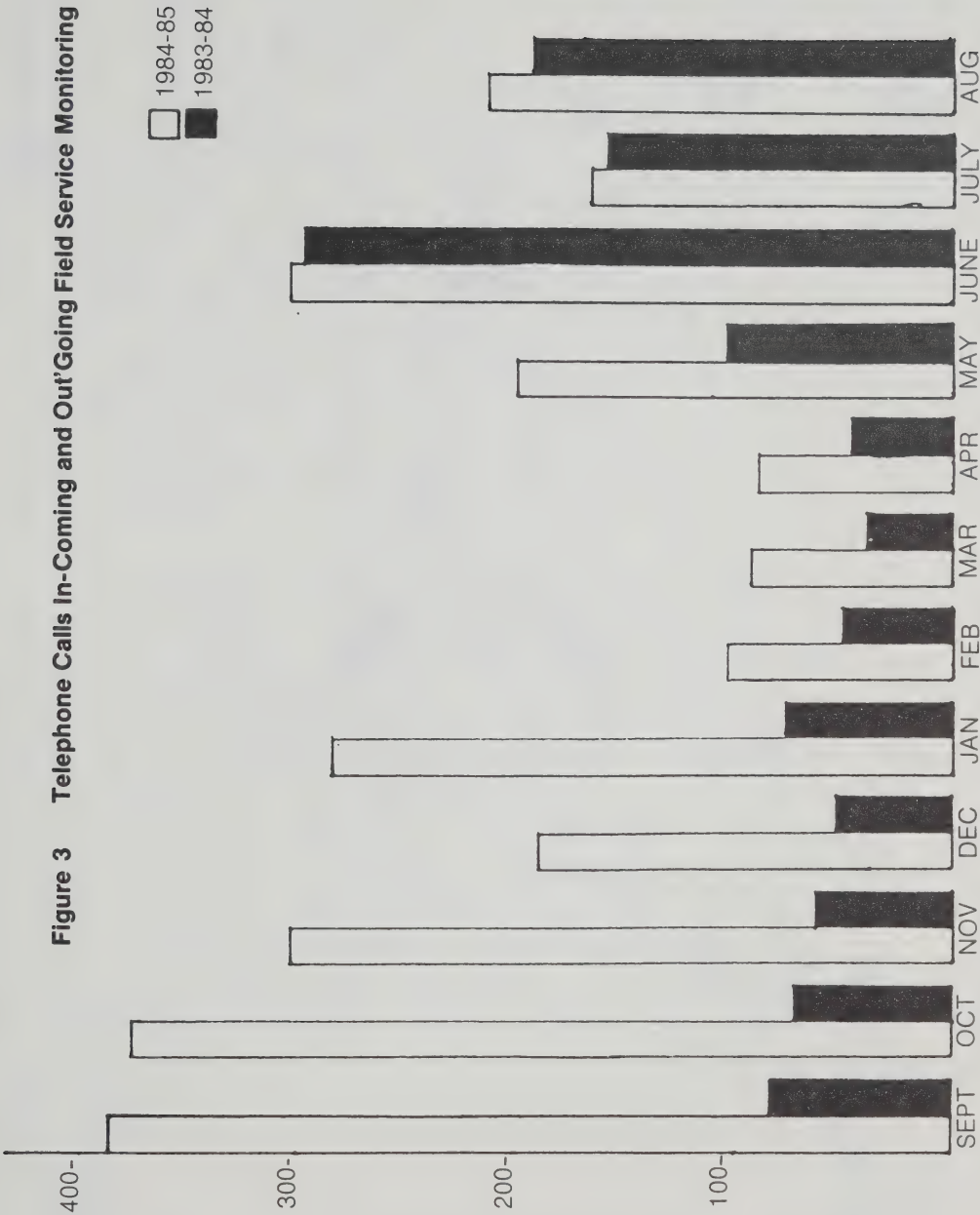
Field Services staff formally analyse all upcoming sets of negotiations early in the negotiation year. The analyses include an assessment of the probable degree of difficulty of each situation and the identification of possible troublesome issues and potential barriers or stumbling blocks to settlement. Their analyses also include recommendations on the style, timing and type of third party assistance appropriate to each situation. This material is summarized and evaluated against past historical developments in the particular teacher/school board relationship. Through this system, more effective and economical appointments are made. Moreover, more informed decisions concerning third party appointments have resulted.

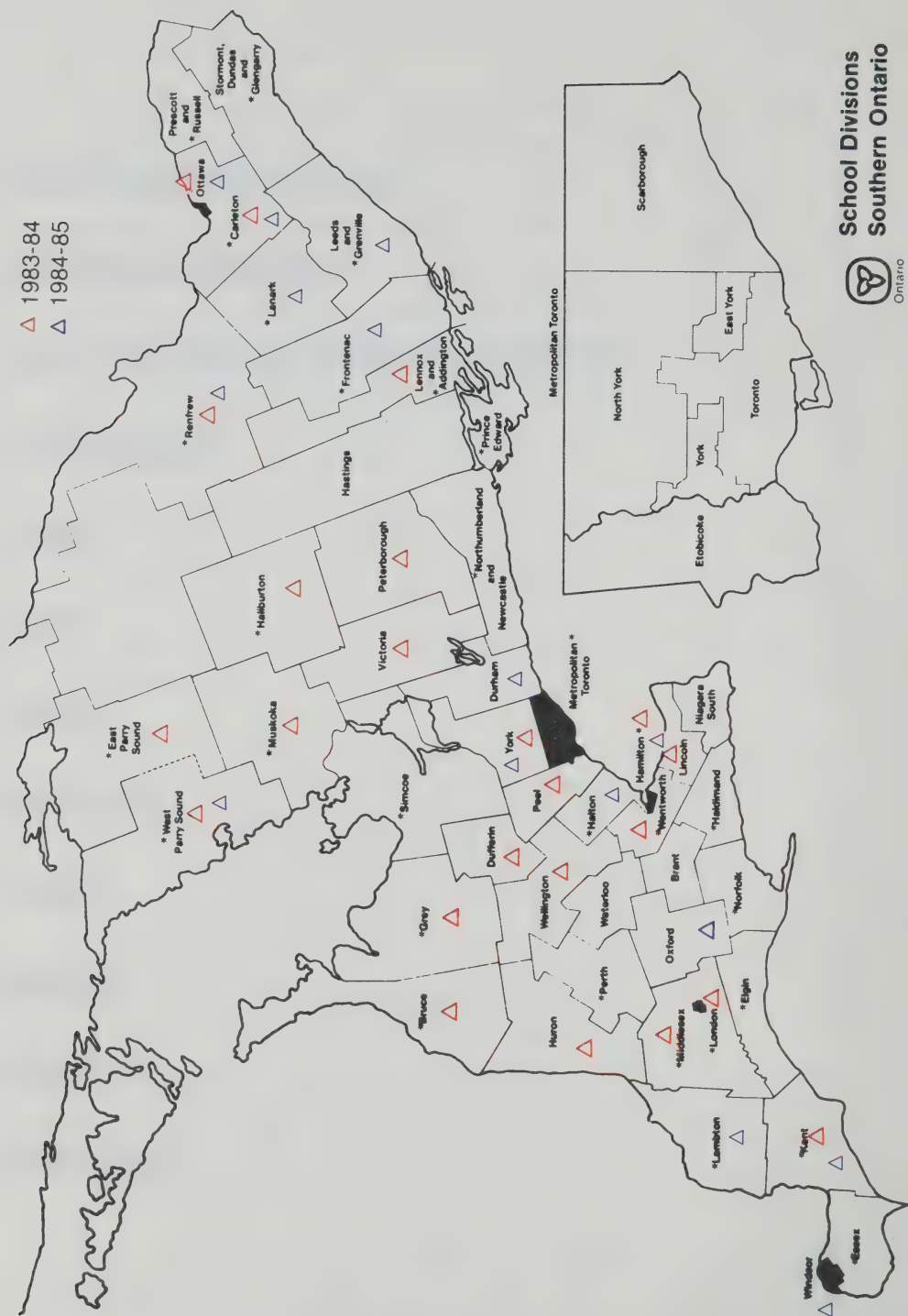
In the monitoring activities, emphasis is placed on the Field Service Officer establishing a high profile with the parties and on strengthening the relations between the field officer and the branch affiliates and school boards in order to enable the Commission to provide the best possible service to the parties in their negotiations and teacher-board relations.

As can be seen from Figure 3, the high level of bargaining activity in 1984-85 resulted in a significant increase in the level of monitoring activity by telephone on the part of field services staff. The staff's field visits to various jurisdictions in the province over the past two years are illustrated in the maps on the following pages.

* A branch affiliate is composed of all the teachers employed by a board who are members of one of the Provincial teachers federations or associations. A branch affiliate is comparable to a local union.

Figure 3 Telephone Calls In-Coming and Out'Going Field Service Monitoring





School Divisions Southern Ontario



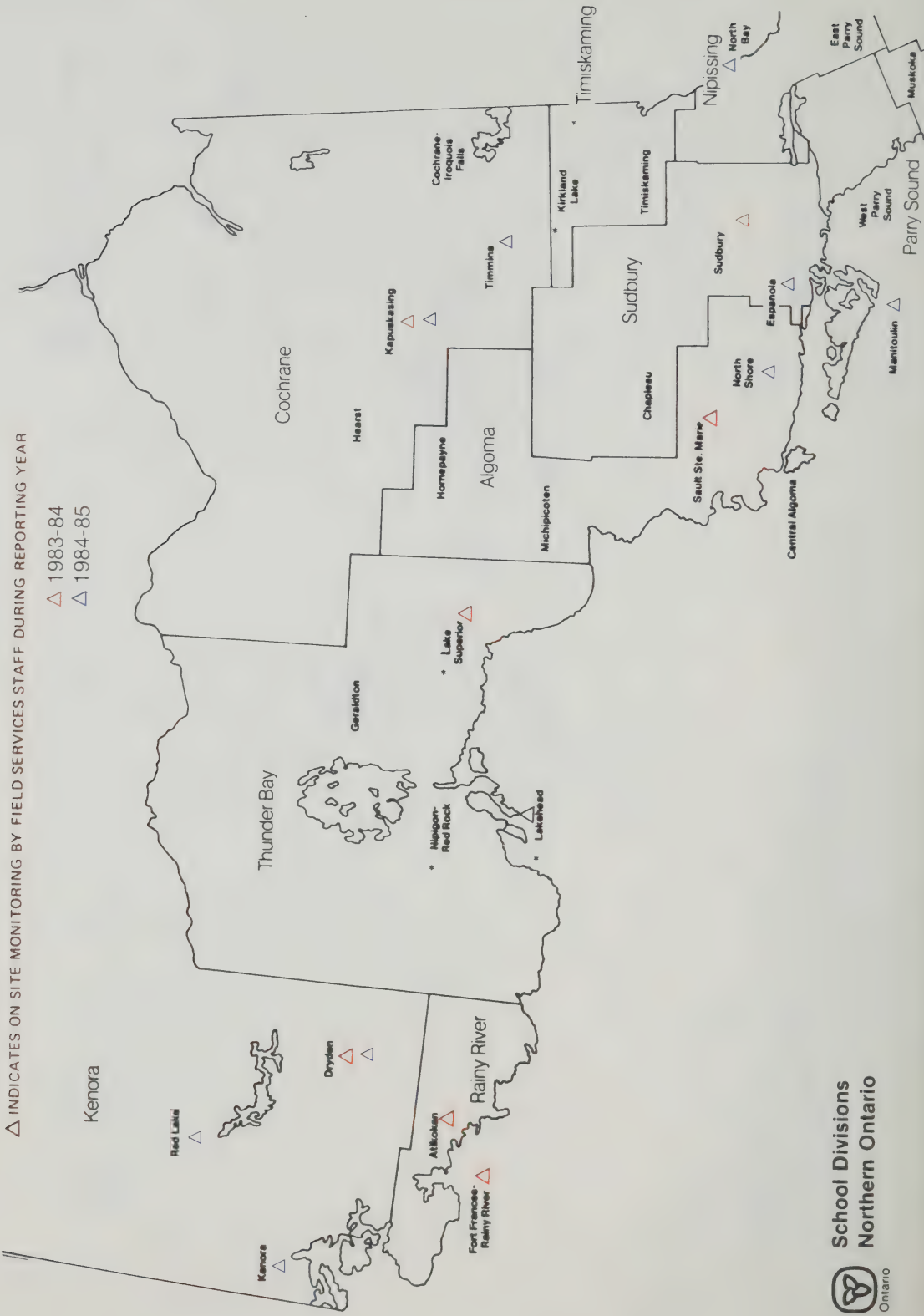


Roman Catholic Separate School Zones Southern Ontario



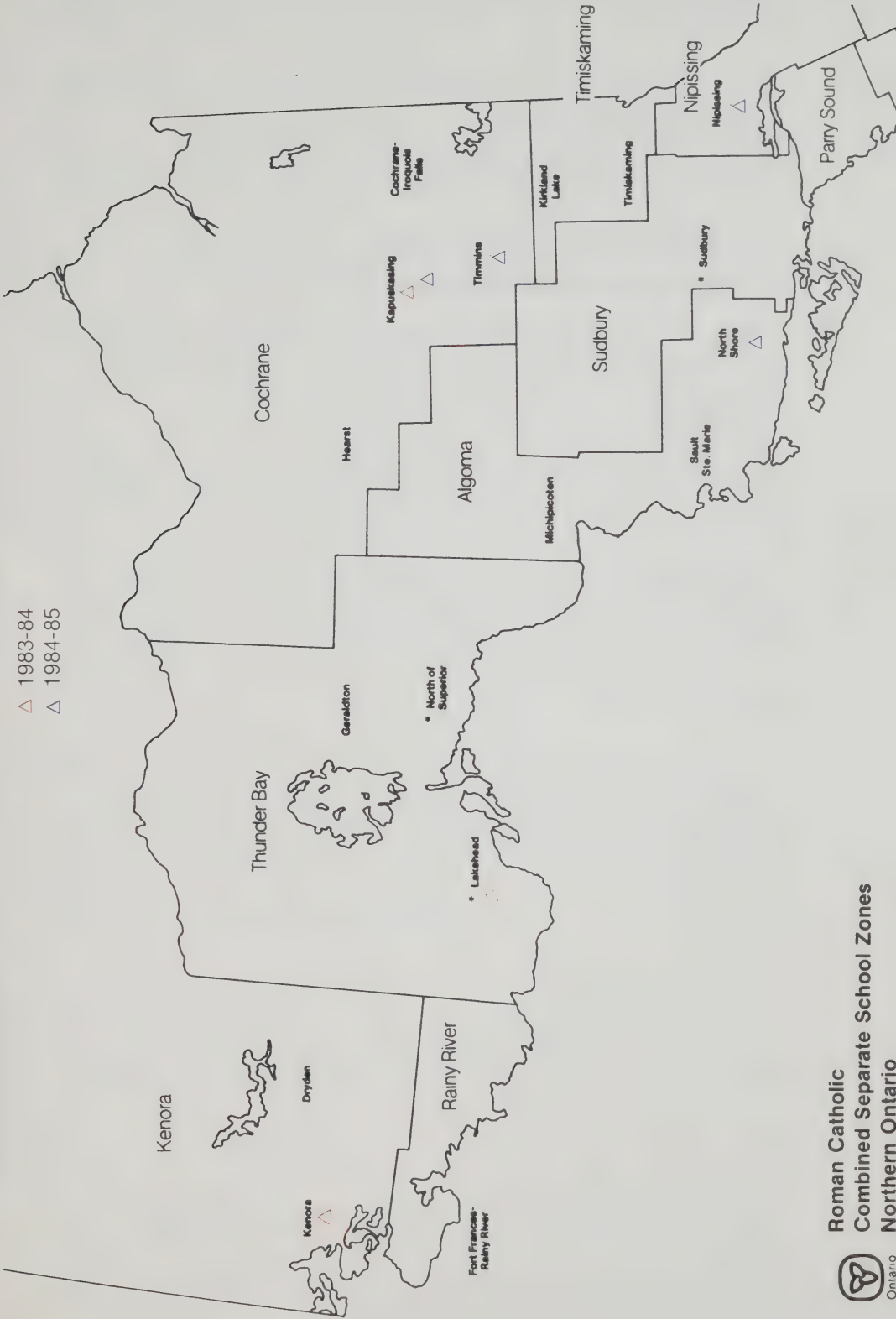
△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR

△ 1983-84
△ 1984-85



△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR.

- △ 1983-84
- △ 1984-85



In addition to the monitoring and third party appointment processes, Field Services staff is intensively involved in a number of other Commission endeavours:

1. selection, training and evaluation of third-parties;
2. quasi-judicial matters;
3. preventive mediation programs;
4. other miscellaneous activities.

(b) Selection, Training and Evaluation of Third Parties

Beyond the role which Field Services staff perform in the appointment of third party neutrals, they are also engaged in their selection, training and evaluation.

(i) Selection

Section 60(1)(e) of the Act directs the Commission “to select and where necessary, to train persons who may act as mediators, fact finders, arbitrators, and selectors.”

The Commission selects persons from a list of qualified fact finders and mediators to assist in collective negotiations as required. Its roster includes men and women from a variety of occupations including labour/management arbitrators, labour lawyers, academics and former educational administrators and teachers. The Commission continues to recruit a number of third parties who are bilingual.

Today, individuals who are utilized by the Commission not only must bring strong qualifications to the ERC, but also must participate in the Commission's training programs. As well, the Commission now evaluates its third parties and only those individuals whose performance is superior continue to be appointed. The Commission continues to seek individuals whose background, experience and understanding of collective bargaining in education renders them eligible to provide the kind of third party assistance required by the ERC.

(c) Quasi-Judicial Matters

Field Services staff is involved in two areas: (1) the appointment of Returning Officers in conjunction with branch affiliate requests to hold Commission-supervised votes, and (2) the investigation of complaints alleging the failure of a party to negotiate in good faith.

(i) Commission-Supervised Votes

Following the public release of a fact finder's report, a branch affiliate is in a position to request that the Commission supervise a vote by its members on the last offer received from the school board and/or whether or not a strike is favoured. Also, if a strike does occur, once a settlement is achieved during the strike, the teachers are required to conduct a Commission-supervised vote concerning the approval of the terms of agreement.

Field Services staff arrange for qualified people throughout the Province to act as Returning Officers for these votes. During the 1984-85 year, a record number of votes were conducted; 67 in total.

(ii) Complaints re Good Faith Bargaining

The Commission has established a procedure for dealing with complaints of this nature. The procedure provides that prior to a formal hearing an informal effort be undertaken to investigate a complaint with a view to its resolution.

It has become customary for Field Services staff to act as investigators and a total of 6 complaints were dealt with during the 1984-85 year, 4 of which were resolved locally thus avoiding the need to proceed to a hearing.

(d) Preventive Mediation

Preventive mediation programs are administered by the Field Services unit. Their main purpose is to assist the parties in reducing, if not eliminating, the obstacles which prevent the parties from resolving matters of mutual concern. In addition preventive mediation attempts to equip the parties with tools which enable them to conduct their negotiations in a more effective and efficient manner within the existing structure of collective bargaining. It must be stressed that preventive mediation activities are not designed to change the present structure of collective bargaining. However, they are designed to enhance it and to make it work for the benefit of both parties. In contrast to conventional mediation, preventive mediation is normally conducted outside negotiations.

It should be stressed the preventive mediation is offered only after both parties in a jurisdiction request ERC involvement.

Although experimentation with preventive mediation began in 1979-80, an official program was not established until 1980-81. The two dimensions of the preventive mediation program are: Relationships by Objectives and Grievance Mediation.

(i) Relationships by Objectives (R.B.O.)

The R.B.O. program involves two numerically equal groups of teachers and trustees/administrators in working through the six steps identified below:

- I Identification of the issues to be resolved as seen by each side.
- II Explanation of issues and rationale by each side to the other.
- III Agreement on a list of objectives based on the issues.
- IV Creation of action steps to meet these objectives by groups composed of an equal number of members from each party.
- V Acceptance and/or tailoring of these action steps by teacher and trustee groups separately.

VI Acceptance of action steps, assigning responsibility and setting time lines by whole group.

This program was originally developed to take place over three days in a residential setting. The Commission, in meeting the needs of the parties has altered this design to:

- 1) Accommodate the problems encountered in attempting to free key trustees, teachers and administrators for a three-day period during the school year.
- 2) Shorten the program from three days to two.

To achieve this, the first step in the process is held prior to the residential portion of the workshop. Also, using the information given by the parties in this first session, the Commission staff prepares a list of objectives which the parties accept and/or tailor in Step III.

The design of the program allows the participants to develop a separate statement of the issues in the school system. Then the parties work towards joint objectives followed by joint action steps to meet these objectives.

This structure, in combination with the time away from the pressures of the system, facilitates the opening of new communication links and channels as well as the clearing of inappropriate and inaccurate perceptions which exist in every large organization.

The Commission in offering this program to school boards throughout Ontario, insists that two criteria be met:

1. Both parties indicate that they desire to participate in the program.
2. The program will not be offered in any jurisdiction where negotiations are in progress.

Jurisdictions which have utilized this program are listed below. During the reporting year the Education Relations Commission conducted an R.B.O. in Renfrew Secondary.

Given the nature of the bargaining calendar during 1984-85, most resources were devoted to negotiation activities rather than R.B.O.'s. However, at this time, a number of jurisdictions have indicated an interest in participation during 1985-86.

(ii) Grievance Mediation

This program is designed to assist the parties in resolving differences between them which arise from the interpretation, application, administration or alleged contravention of the collective agreement. The use of this procedure does not preclude the parties from proceeding to arbitration if the matter is not resolved through mediation.

One purpose of grievance mediation is to alleviate the build up of negative attitudes which develop within a system because of unresolved grievances. Such grievances often become issues in negotiations. Moreover, grievance mediation is a method of solving disputes as close to the source and as quickly as possible. Lastly, grievance mediation is much less expensive than arbitration.

The Commission introduced grievance mediation in 1979-80. Meetings were held with the provincial teacher federations and trustees associations to introduce the concept, and explain some of its advantages.

A training session for grievance mediators was held in 1980-81. Eight mediators from across the province attended a two-day workshop which was designed to acquaint them with the arbitral jurisprudence developing in Ontario education and with the unique aspects of the grievance mediation process. The purpose was to develop a group of experts. From this group the Commission appoints as the need arises.

In February 1984, the Commission hosted a workshop on grievance mediation. The aim of the workshop was to explain the techniques and procedures involved in Grievance Mediation and compare this process in terms of cost, philosophy and practical aspect to Grievance Arbitration. Over 200 people attended and these encompassed the full spectrum of the education sector — teachers, trustees, administrators and boards' legal counsel.

From the Commission's point of view, the number of people attending the workshop and the number of grievance mediation appointments during the year indicated some change of attitude toward the grievance process by the parties. Grievance mediation appointments over the past five years are listed below. The process, while utilized modestly, remains a useful and less costly alternative to rights arbitration.

Date	Jurisdiction	Parties	Facilitators	Nature of Preventive Mediation
1979	Essex RCSS Bd.	Trustees, Administrators, Teachers	Dr. David Tough	Five meetings to set up ground rules for negotiations.
1979	Essex RCSS Bd.	Trustees, Administrators Teachers	Mr. Bill McCordic	Assisted in developing a staffing formula for September 1980
1979	Perth County Bd. of Education	Trustees, Administrators Teachers	Dr. David Tough	Chaired committee of trustees, administrators and teachers on staffing and time-tabling in the secondary schools.
1979	Haldimand Bd. of Education	Trustees, Administrators	Sam McKeown	Weekend workshop of Relationships by Objectives.
Jan-Feb 1980	Wellington County Board of Education	Trustees, Administrators Secondary Teachers	Kim Shearer	Facilitate cooperative bargaining process — 4 sessions totalling 67 hours.
May 1980	Halton Bd. of Education	Trustees and Administrators	Sam McKeown	Day and one-half workshop on Relationship by Objectives.
June 1980	East Parry Sound Bd. of Education	Trustees, Administrators Elementary and Secondary Teachers	Kim Shearer	Three-day workshop on alternative methods of bargaining; representatives from 6 boards were brought together to discuss pros and cons of various methods.
June 1980	Haldimand Bd. of Education	Trustees, Administrators, Teachers	Sam McKeown	One-day workshop on communications.

Oct 1980	Lennox & Add. County Bd. of Education	Trustees and Administrators	Sam McKeown	Day and one-half workshop on Relationships by Objectives.
Dec 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Sam McKeown Eric Runacres Craig Crawford	Three-day workshop on Communication Skills.
Dec 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Sam McKeown Eric Runacres	Three-day workshop on Problem-Solving Skills.
Dec 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Sam Keown Eric Runacres Craig Crawford	Three-day workshop on Conflict Management.
Mar 1981	Lambton County Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Kim Shearer Paul Doucette Eric Runacres	Two-day workshop on Relationships by Objectives.
Oct 1981	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Eric Runacres Jim Breckenridge	Two-day Evaluation workshop.
Apr-May 1981	London Bd. of Education	Administrators	Sam McKeown	Planning new approaches to administration in the 80's (Two one-day sessions)

June 1981	Haldimand Bd. of Education	Trustees, Administrators, Teachers	Sam McKeown	One-day workshop on communications.
Feb 1982	East Parry Sound Bd. of Education	Administrators Elementary and Secondary Teachers	Eric Runacres	One-day workshop to review communication, problem-solving and conflict managements skill and establish future goals; develop action steps.
Mar 1982	Essex RCCS Bd.	Trustees, Administrators, Teachers (OSSTF FWTAO, AEFO)	Eric Runacres	Two-day workshop on communications, problem solving and conflict management skills.
Apr 1982	East Parry Sound Bd. of Education	Administrators, Principals of all Elementary and Secondary schools selected department heads from the Secondary school, and consultants who serve the system	Eric Runacres Don Musella	Three-day workshop of Leadership, skill development in communications, problem-solving, decision-making, and ways to handle conflict.
June 1982	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Craig Crawford, Jim McLachlin	Evening session to introduce new trustees and teachers to technical assistance programme.
June 1982	Timiskaming Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Sam McKeown Kim Shearer	Day and one-half workshop on Relationship by Objectives.

Nov 1982	Lincoln Bc. of Education	Trustees and Administrators	Sam McKeown	Two-day workshop on Relationships by Objectives; familiarize new trustees with the shool system operation.
Feb 1983	East Parry Sound Bd. of Education	Internal facilitators 1 Trustee 5 Elementary Teachers 1 Secondary Teacher	Kim Shearer	Three-day workshop to develop internal facilitators.
Feb 1983	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Kim Shearer Craig Crawford	Three-day workshop on communications, problem-solving conflict management, group development, and relationship focusing.
May 1983	East Parry Sound Bd. of Education	Internal facilitators 1 Trustee 5 Elementary Teachers 1 Secondary Teacher 3 ERC Staff	Kim Shearer	Learning reinforcement for internal facilitators.
Oct 1983	West Parry Sound Bd. of Education	Trustees, Administrators, Elementary Teachers	R. H. Field Bill Piliotis Craig Crawford Harry Sparling Jim Breckenridge	Two-day workshop on Relationships by Objectives.
Jan 1984	Atikokan Bd of Education	Trustees, Administrators, Elementary and Secondary Teachers	R. H. Field Bill Piliotis Craig Crawford Jim Breckenridge	Two-day workshop on Relationships by Objectives.

Jan 1984	Welland County Roman Catholic Separate School Board	Trustees, Administrators, Teachers	R. H. Field Bill Pilotis Craig Crawford Jim Breckenridge	Two-day workshop on Relationships by Objectives.
May 1984	Canadian Forces Base, Petawawa Bd. of Education	Trustees, Administrators, Elementary Teachers	R. H. Field E. M. Aim D. Nilsson Craig Crawford Jim Breckenridge	Two-day workshop on Relationships by Objectives
Jan 1985	Renfrew County Bd. of Education	Trustees, Administrators Secondary Teachers	R. H. Field E. M. Aim D. Nilsson Jim Breckenridge	Two-day workshop on Relationships by Objectives.

DATE	PARTIES	GRIEVANCE MEDIATOR NATURE OF ASSISTANCE	
June 1980	Provincial Schools Authority and Federation of Provincial Schools Authority Teachers	Maureen Saltman	Issue Resolved
June 1981	Nipissing Board of Education and the Branch Affiliates of FWTAO and OPSTF	Graeme H. McKechnie	Issue Resolved
March 1982	Central Algoma Board of Education and the Branch Affiliate of OSSTF	Malcolm Stockton	Issue Resolved
May 1982	Northumberland and Newcastle Board of Education and the Branch Affiliates of FWTAO and OPSTF	Malcolm Stockton	No Resolution; Issue went to Arbitration
May 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of OSSTF	David Moore	Issue Resolved
Sept. 1983	York Region RCSS Board and the Branch Affiliate of OEETA	Graeme H. McKechnie	No Resolution; Issue went to Arbitration
Sept. 1983	Victoria Board of Education and the Branch Affiliate of OSSTF	Maureen Saltman	Issue Resolved; Rejected Dec. 8; Issue went to Arbitration
Sept. 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of AEFO	Michel Picher; assisted by Helen Finlay	Issue Resolved; but Rejected by Board October 3, 1984
Oct. 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of OSSTF	Frank A. Addario	Seven Grievances Issues Resolved

Dec. 1983	Haldimand Board of Education and the Branch Affiliate of OSSTF	Tom Bastedo	Two Grievances, one resolved, one to Arbitration
Dec. 1983	Essex County RCSS Board and the Branch Affiliate of OECTA	Graeme H. McKechnie	Issue Resolved
Jan. 1984	Halton Board of Education and the Branch Affiliate of OSSTF	Dr. Bill Marcotte	No Resolution; Issue went to Arbitration
Jan. 1984	Peel Board of Education and the Branch Affiliate of OSSTF	David Moore	No Resolution
Jan. 1984	CFB Petawawa Board of Education and the Branch Affiliates of FWTAO and OPSTF	Dr. Bill Marcotte	Resolved
April 1984	Sault Ste. Marie Board of Education and the Branch Affiliate of OSSTF	Dr. Harold Jakes	Issue Resolved; Rejected by Board
April 1984	Kapuskasing Board of Education and the Branch Affiliate of AEFO	Norman Bernstein	Issue Resolved
June 1984	North York Board of Education and the Branch Affiliates of FWTAO and OPSTF	Maureen Saltman	Agreement to hold Issue in Abeyance
June 1984	Red Lake Board of Education and the Branch Affiliate of OSSTF	Paul Piche	Issue Resolved
June 1984	Northumberland and Newcastle Board of Education and the Branch Affiliate of the OSSTF	Maureen Saltman	No Resolution; Issue went to Arbitration

Oct. 1984	Sudbury Roman Catholic Separate School Board and the Branch Affiliate of AEFO	Norman Bernstein	Resolved
Nov. 1984	Timiskaming Board of Education and the Branch Affiliate of OSSTF	Tom Bastedo	Parties unable to meet; Issue to Arbitration
Dec. 1984	Sudbury District Roman Catholic Separate School Board and the Branch Affiliate of OECTA	Maureen Saltman	Resolved
Dec. 1984	Kapuskasing Board of Education and the Branch Affiliate of FWTAO	Graeme H. McKechnie	Resolved
April 1985	Sault Ste. Marie Board of Education and the Branch Affiliate of OSSTF	Malcolm Stockton	Resolved
May 1985	Red Lake Board of Education and the Branch Affiliate of FWTAO	Paul Piche	Resolved
May 1985	Board of Education for the City of Windsor and the Branch Affiliate of OSSTF	Dr. R. Ianni	Issue to Arbitration

(e) Other Miscellaneous Activities

A major workshop concerning interest mediation was held for representatives of the local parties in March, 1985, in Toronto. The purpose of the workshop was to provide information to the parties on the methods and utilization of the mediation process. A cross-section of participants was involved and in excess of 200 enrolled in the workshop.

The one-day session consisted of a number of topics:

- an overview of the process of mediation and the Commission's rôle in this process with Dr. B.M. Downie, Chairman of the ERC acting as presenter;
- a panel of discussants consisting of Commission-staff and experienced mediators to react to questions/concerns regarding mediation from the participants;
- a luncheon presentation by Chief Justice Alan B. Gold, Superior Court of Quebec, a renowned third party in Canada;
- a case study of mediation employing the Commission-produced training film "Apples Won't Get It Anymore."

Evaluations of the workshop were extremely positive and included suggestions that consideration should be given to the continuation of such efforts as well as their expansion to other areas, e.g. fact finding.

Liaison activities continued with ERC Field Services staff and the staffs of the various provincial bodies of teacher and trustee organizations. These sessions enable an on-going dialogue about the collective bargaining process and perceived problems or areas for improvement.

Throughout the year, Field Services staff were asked to act as presentors in a wide variety of workshops and seminars enabling the role and activities of the Commission to be explained on a first hand basis. Among others, staff were involved in the following: Canadian School Trustees' Association Congress on Education, Canadian School Trustees' Association Conference for Negotiators, Association of Labour Relations Agencies Annual Meeting and Conference, Ontario School Trustees' Council Salary Conference, Ontario Association of Education Administrative Officials Conference for Chief Executive Officers.

2. RESEARCH SERVICES

(a) Information

Research Services — which is composed of a Director, two Research Specialists, and a Collective Agreements Analyst — is responsible for developing and maintaining a common collective bargaining data base. Local teachers and school boards rely heavily on this data base to identify emerging settlement trends, and to resolve factual disputes. The Research staff, through extensive telephone contacts and published reports, also keep the local parties abreast of new developments in contract language and arbitral jurisprudence. During the 1984-85 year, Research Services processed more than 1,100 requests for information. (See Tables 15 and 16).

The Commission's data base contains salary, benefits and other working conditions information which has been extracted from over 2,000 collective agreements dating back to 1975-76. Also contained in the data bank are staffing, enrolment and school board expenditure information which is collected in cooperation with the Ministry of Education.

Table 15 Number of Requests for Information by Month and Party, 1984-85

	Local Teacher	Local Board	ERC Appointee	Provincial Teacher	Provincial Trustee	Media	Other	Total
1984								
Sept.	11	12	14	4	3	1	13	58
Oct.	16	20	38	3	3	1	21	102
Nov.	6	17	24	12	1	1	27	88
Dec.	8	6	16	4	2	1	12	49
1985								
Jan.	4	16	8	9	—	1	21	59
Feb.	8	6	6	4	—	—	20	44
Mar.	4	10	2	3	1	—	10	30
April	8	15	3	7	1	—	16	50
May	5	22	2	6	5	3	18	61
June	5	18	9	5	1	—	19	57
July	6	4	—	3	—	1	5	19
Aug.	10	9	12	2	—	—	10	33
TOTAL	91	155	124	62	17	9	192	650

Table 16 Number of Requests for Publications, Month and Party, 1984-85

	Local Teacher	Local Board	ERC Appointee	Provincial Teacher	Provincial Trustee	Media	Other	Total
1984								
Sept.	13	12	2	1	1	—	30	59
Oct.	19	8	12	2	—	1	34	76
Nov.	10	13	8	5	—	—	45	81
Dec.	8	2	2	2	—	1	29	44
1985								
Jan.	—	1	1	2	—	—	6	10
Feb.	17	10	—	4	—	—	16	47
Mar.	7	4	1	2	—	—	9	23
April	10	6	—	5	—	—	5	26
May	9	8	1	2	2	2	9	33
June	1	6	14	4	6	—	8	39
July	2	1	—	1	—	—	16	20
Aug.	4	4	1	—	—	—	13	22
TOTAL	100	75	42	30	9	4	220	480

Research Services also maintains a reference library which contains a copy of all collective agreements, public fact finding reports, arbitration awards, final offer selection awards; and ERC determinations. The library is open to the public.

Research officers participate actively in the training and evaluation of mediators and fact finders. The unit tries to improve the efficiency and effectiveness of third parties by supplying, on very short notice, complex historical and comparative analyses of salaries and other working conditions. These analyses are used by the third parties to evaluate the relative merits of the two parties' positions, and to develop recommendations which will assist the parties in reaching a rational and amicable settlement of their differences.

During 1984-85, Research Services undertook a comprehensive two-month examination of the impact of technology and other factors on the future of ERC's information service. This study concluded that existing computer operations on an external mainframe computer should be closed down, a mini-computer should be purchased, and all computing should be carried out "in-house". By moving in this direction, the ERC could reduce its data processing costs, yet improve and expand its services.

The consulting firm of Price-Waterhouse was contracted to recommend an appropriate computer configuration. After a six-week study, Price-Waterhouse concluded that the purchase of a Digital VAX 11 / 750 mini-computer would not only satisfy the ERC's computing needs but would also, using conservative estimates, pay for itself within three years.

In anticipation of transferring its operations in-house, Research Services moved its data to the Ontario Institute for Studies in Education (OISE) which had a computer configuration similar to the one recommended in the Price-Waterhouse study. This allowed the research unit an opportunity to develop computer programs capable of being transferred, without modifications (and attendant delays, and associated costs) onto the proposed in-house computer. Over 40 computer programs were developed and tested at OISE during an eight month period.

Meetings were also held with the provincial teacher and trustee organizations to inform them of the Commission's new activities. In return for direct access to the Commission's proposed in-house computer, these organizations offered to assist the Commission in developing new and better computer programs, and in supporting the data base by training local negotiators in its effective use. One of the products of this cooperative venture was the development of several powerful costing programs.

Cabinet approved the purchase of an in-house computer on October 3, 1985. Direct access by the five provincial trustee and five provincial teacher associations occurred in November, with local access by school boards and branch affiliates slated for April 1986.

b) Research

As in previous years, Research Services personnel continued to publish various reports on salaries and other working conditions. However, because of the need to control rapidly escalating printing and mailing costs, and the desire to provide information on a more timely basis, Research Services placed greater emphasis this year on developing methods of electronic distribution. For example, a Bulletin Board System was developed which will allow negotiators to access the ERC data bank through remote terminals and obtain up-to-the-minute salary trends. In previous years the parties would normally have to wait until the Commission published its bi-monthly settlement report. A Clause File System was also developed. Negotiators can now access the ERC data bank to peruse various types of contract language without having to wait for the receipt of published documents which sometimes might arrive months after their need arose.

Finally, Research Services developed a two-year research agenda to further the Commission's goals, that is, to:

- maximize the settlement rate;
- minimize the length of negotiations;
- minimize the stages of bargaining utilized by the parties;
- minimize the number of appointments;
- minimize the costs of appointments; and
- maximize the efficacy of third parties.

This research agenda includes studies of the mediation and fact finding processes, the early identification of "problem-prone" situations, an evaluation of the impact of early fact finding or "pro-active bargaining" and an examination of the relationship between the length of negotiations and bargaining outcomes.

These studies are progressing on schedule and should be completed during 1985-86. The results will assist the Commission to improve further its operational and strategic planning.

Chairman

Bryan M. Downie, B.A. (Concordia, Minnesota), M.B.A. (University of Chicago), Ph.D. (University of Chicago).

Dr. Downie, (Professor, Industrial Relations and Public Policy, Queen's University) has served as a fact finder, mediator, and interest arbitrator. He has published extensively in the area of labour relations and his book, *Collective Bargaining and Conflict Resolution in Education* examines the activities and policies of the Education Relations Commission during its formative years. He is Canadian Director and a Board member of the Society of Professionals in Dispute Resolution, an association of third party neutrals based in Washington, D.C. and is currently President of the Canadian Industrial Relations Association and a member of the Board of Directors of the Social Science Federation of Canada.

Vice-Chairman

T. Gary O'Neill, B.A. Sc. (University of Toronto), M.Eng. (Carleton), LL.B. (University of Ottawa)

Mr. O'Neill is a member of an Ottawa law firm who is knowledgeable in both dispute resolution and the issues in the education sector of Ontario. Since 1977, Mr. O'Neill has served as a third-party on numerous occasions.

Commissioner

Harvey M. Nightingale, B.A. (University of Western Ontario), M.Ed. (University of Toronto), M.A. (York University).

Mr. Nightingale served as Director of Economic and Legislative Services for the Ontario Trustees' Council from 1973 to 1981. In this position he was responsible for both developing and articulating the trustees' position on various educational issues, including collective bargaining and the School Boards and Teachers Collective Negotiations Act.

Mr. Nightingale is Executive Director of the Ontario Nursing Home Association.

Commissioner

Louise B. Binder, B.A. (University of Toronto), LL.B. (Queen's University).

Miss Binder is Co-ordinator of Labour Relations with Gulf Canada Products Limited. Following graduation from law school she practised labour law for management with a Toronto law firm. Since 1977, she has been in private sector Employee Relations.

Miss Binder is also a member of the Ontario Public Service Labour Relations Tribunal.

Commissioner

Donald S. Felker, B.Sc. (University of Ottawa), M.Ed. (University of Toronto), Ed.D. (University of Pennsylvania).

Dr. Felker, a self-employed educational consultant, has served as an appointee in both grievance and arbitration boards. He spent thirteen years in the Ontario Public School System as a Teacher, Vice-Principal and Principal and from 1968 to 1973, he served as General Secretary for the Ontario Secondary School Teachers' Federation and is a Life Member of the Ontario Secondary School Teachers' Federation.

APPENDIX B SANCTION RECORD

Sanction Record, 1975-76 to 1984-85

Year School Board	Total Sanction Days	Total Sanction Days Excluding Work-to-Rule
1975-76 Secondary (6):*		
**Central Algoma	35	35
Kent County	66.5	13.5
**Kirkland Lake	44	44
**Metro Toronto	38	38
**Sault Ste. Marie	46	13
**Windsor	27	26
Year Average	42.7	28.2
	(40.6)***	(32.7)***
1976-77 Secondary (2):		
Peel	44	0
Stor., Dundas, Glengarry	24	24
Year Average	34.0	12.0
RCSS (1):		
Durham	9	9
Year Average	9.0	9.0
1977-78 Secondary (5):		
Essex	16	16
Huron	31	31
Perth	41	0
**Renfrew	73	44
Wentworth	49	16
Year Average	42.0	21.4
RCSS (1):		
Essex	34	34
Year Average	34.0	34.0
1978-79 Secondary (3):		
Haldimand	36	36
Kirkland Lake	30	26
York County	5	2
Year Average	23.7	21.3
1979-80 Elementary (2):		
Brant	22	22
Peel	14	13
Year Average	18.0	17.5
Secondary (3):		
Lambton	39	39
North York	40	0
**Sudbury	56	56
Year Average	45.0	31.7
RCSS (2):		
Frontenac	14	14
Nipissing	18	18
Year Average	16.0	16.0

1980-81 Secondary (3):		
Bruce	40	38
Leeds and Grenville	30	30
Norfolk	48	47
Year Average	39.3	38.3
RCSS (1):		
Essex	9	9
Year Average	9.0	9.0
1981-82 Secondary (2):		
Leeds and Grenville	0	0
West Parry Sound	51	51
Year Average	25.5	25.5
RCSS (2):		
Carleton (OECTA)	19	19
Carleton (AEFO)	11	11
Year Average	15.0	15.0
1982-83 Secondary (1):		
Oxford County	7	1
Year Average	7.0	1.0
1983-84 (0)		
	0	0
1984-85 Secondary (3):		
Hamilton (OSSTF)	39****	29****
Muskoka	30	30
Year Average	34.5	29.5
RCSS (3):		
Stormont, Dundas and		
Glengarry (AEFO)	9	9
Sudbury	21	21
York Region	22	0
Year Average	17.3	15.0

* 11 sanctions if Metro = 6

** An advisement was made pursuant to section 60(1)(h).

*** Average if Metro = 6.

**** There is a disagreement between the school board and the branch affiliate concerning the nature of the strike during its first 10 days. The branch affiliate contends the strike was a work-to-rule while the school board views the teachers' actions as going beyond a work-to-rule. The matter is to be decided through arbitration.

APPENDIX C**STATEMENT OF EXPENDITURES
APRIL 1, 1984-MARCH 31, 1985**

Categories	Budget Allocation \$	Actual Expenditures \$
Salaries and Wages*	560,800	493,453
Employee Benefits*	74,600	61,788
Transportation and Communi-s		
Communications	19,000	12,561
Mailing	20,000	15,284
Freight	—	198
Relocation Expenses	—	1,936
Travel Public Servants	60,000	23,832
Travel — Others	107,400	206,365
	206,400	260,176
Services		
Advertising-Print		
Design	50,000	56,704
Rental Services	9,600	8,470
Data Processing	25,000	32,738
Housekeeping	1,500	350
Conference Expenses	29,000	10,826
Commissioners	30,000	27,624
Professional Services	331,200	361,893
Purchasing, Repairs	2,500	5,653
Special Services	40,000	41,835
Job Advertising	—	1,505
	518,800	547,598
Supplies		
Data Processing		
Equip./Supplies	25,000	16,754
Office Furniture	2,000	1,149
Veh. Components, Hardware	—	2
Office Equipment	2,500	4,407
Lab. Equip./Drugs	—	6
Utilities, Other Supplies	200	2
Office Supplies	5,000	8,291
Books Publications	4,500	4,692
Cloth, Personnel & Health	—	3
Drafting & Exhibits	—	5
	39,200	35,311
TOTAL	1,399,800	1,398,326

* Adjusted per Management Board Order

Negotiations conducted in accordance with the Act

Total Number of Negotiations Conducted by Boards and Teachers in Ontario	227
Number of Negotiations Not Requiring Formal Commission Assistance	80
Number of Fact Finders Assigned	130
Number of Situations where Mediator Assigned	96
Settlements By Voluntary Binding Arbitration	3
Settlements By Voluntary Final Offer Selection	0

NOTE:

In some sets of negotiations both a fact finder and a mediator were assigned.

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Education Relations Commission

Annual Report
1985-1986



Ontario

**Education
Relations
Commission**

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**111 Avenue Road
Suite 400
Toronto, Ontario
M5R 3J8**

To: The Members of the Legislative Assembly
Province of Ontario

**ANNUAL REPORT
1985-86**

Dear Members:

We have the honour to present the Eleventh Annual Report of the Education Relations Commission, which covers the period from September 1, 1985 to August 31, 1986.

Bryan M. Downie
Chairman
Education Relations Commission

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OVERVIEW

The 1985-86 year experienced a return to more normal teacher/school board bargaining and dispute resolution, but at the same time during this period some rather profound developments took place. Both aspects are discussed below.

NEGOTIATIONS

In last year's report the following had been noted:

During the 1984-85 round, there were a total of 227 sets of negotiations — more than any other year since the Commission's inception. This resulted in an extremely heavy work load for the Commission's staff and its cadre of ad hoc third parties.

Of more concern was the fact that negotiations were more difficult and required more third-party intervention than in any previous year. There were a greater number of mediator appointments — both in terms of total number and as a percentage of negotiations conducted — than in any previous negotiation round. This was also the case for fact finder appointments.

Negotiations were long and drawn out and a total of seven strikes occurred — four in the secondary school system and three in separate school boards. As well, Commission staff was called upon to supervise a larger number of last offer and strike votes than in any previous round.

The 1984-85 results are particularly disturbing, ... if they are a portent for future negotiation rounds. That is, it may be that 1984-85 signals a fundamental change in teacher-school board negotiations. If so, new approaches may be necessary to ensure an effective and efficient process of dispute resolution.

Fortunately, the state of negotiations during the reporting year was generally positive. Third party appointments by the Commission were down significantly from the previous year. Out of 192 sets of negotiations just 81, or 42 per cent, required the appointment of a fact finder. As noted above this compared with 130 appointments or 57 per cent of negotiations in the previous year. The same trend occurred with respect to the appointment of mediators. In the reporting year 25 per cent of the 192 jurisdictions where negotiations took place required the appointment of a mediator. In the previous year, almost half the parties negotiating required the appointment of a mediator. The number of jurisdictions requiring *both* fact finding and mediation and the jurisdictions requiring *either* fact finding or mediation also was down significantly.

There also were fewer last offer and strike votes supervised by the Commission than in the previous year. In all respects, therefore, there was a return to levels of third-party activity which was more typical of the experience since the inception of the *School Boards and Teachers Collective Negotiations Act*.

Of the 192 sets of negotiations, four resulted in sanctions. There were strikes in three secondary school panels and in one separate school board. The number of strikes is in line with the general experience since 1975 and represents a decline from the number in the previous year. One of the strikes (the secondary

school teachers' strike in Wellington County which lasted ten weeks) was ended through government legislation. The legislation included a provision which required the parties to execute a document in the form of a collective agreement containing all of the matters agreed to by the parties and all of the recommendations contained in a "mediator's proposal" made by the mediator who had been assigned to the dispute. Details with respect to the strike are contained on pages 21 to 23 of the report.

BILL 30

The most significant development during the reporting year was the passage of the *Education Amendment Act, 1986* (Bill 30). The provisions of Bill 30 extend full funding to Roman Catholic Separate School Boards who elect to perform the duties of a secondary school board by passing a by-law which is subject to the approval of the Minister of Education. Bill 30 is likely to have a notable impact on collective negotiations in both Roman Catholic School Boards and boards of education. For example, Bill 30 has both financial and job security implications for both sectors and, as a consequence, it has collective bargaining ramifications across the province. A discussion of the *Education Amendment Act, 1986* is presented on pages 26 to 29.

Bill 30 also has raised issues concerning bargaining structure and affiliate jurisdiction in Roman Catholic School Boards and these issues remain to be resolved. In May of 1986 a bad faith bargaining charge was filed with the Commission which was related to the above issues. A complaint of failure to bargain in good faith was filed with the Commission by L'Association des Enseignants Franco-Ontariens (AEFO) against the Cochrane-Iroquois Falls District Roman Catholic Separate School Board. The Branch Affiliate of AEFO had sent to the School Board a notice of its intent to negotiate separately for elementary and secondary school teachers. It was the Branch Affiliate's desire to conclude separate collective agreements at each level. The School Board refused to negotiate on this basis. A discussion of the Commission's determination which upheld the position of AEFO is presented on pages 26 to 28. The Commission's determination is available upon request.

FIELD SERVICES

In addition to its monitoring function and the appointment of third parties, Field Services has the responsibility of administering the Commission's Relationships by Objectives (RBO) program. This initiative is designed to improve the attitudes of, and relationships between, branch affiliates and school boards. In the reporting year a greater number of programs of this nature were conducted by Commission staff than in any previous year. Feedback from the parties involved in these programs was uniformly positive.

RESEARCH SERVICES

During the reporting year Research Services took important steps to improve and expand its information processing and data analysis.

In November, 1985 the Commission took delivery of a VAX 750 computer. On November 28, 1985 direct access to the data was made available to the Provincial Teachers' Affiliates and to the various trustee organizations. In April, 1986 individual school boards began to access the computer. Direct access by means of the E.C.N.O. network is currently provided to 35 school boards.

In August, 1986 the British Columbia Ministry of Education provided salary data for that Province and has joined the data network. This represents a first step toward the development of a national data base with respect to salaries and working conditions.

Members of the Commission staff consulted with the Council of Ministers of Education and the Canadian School Trustees' Association with respect to the creation of a national data network. The Ontario Institute for Studies in Education was contacted to develop screen handling software for the collection of data through the E.C.N.O. network.

PERSONNEL CHANGES

Victoria Grabb, Field Service Officer, resigned from the Commission during the reporting year. To fill this vacancy the Commission appointed James Breckenridge as Field Service Officer. Mr. Breckenridge holds a B.A. from Carleton University and was an English teacher at the Northumberland-Newcastle Board of Education. He had been employed by the Commission since 1980 as Administration and Information Officer until the above appointment.

Mary Nensy was promoted to the position of Administration and Information Officer. Ms. Nensy joined the Commission in 1980 as Senior Secretary and in 1982 she was promoted to Administrative Assistant to the Chairman and Chief Executive Officer of the Commission.

I THE COMMISSION — MEMBERS AND ORGANIZATION STRUCTURE

The Education Relations Commission is composed of five members appointed by the Lieutenant Governor-in-Council. The term appointment may range from one to three years and each member of the Commission is eligible for reappointment upon the expiration of the term. Dr. Bryan Downie, first appointed Chairman of the Commission on November 1, 1979, was reappointed for a second term on October 31, 1981, and to a third term on October 31, 1985. T. Gary O'Neill was appointed Vice-Chairman on December 22, 1981 and was reappointed for a second term on December 22, 1985. Ghislaine A. Connors was appointed a Commissioner in March of 1986, John I. Zeiler in March of 1986 and Jane E. Scott in December of 1985. A biographical sketch of each of the Commissioners is contained in Appendix A.

The Commission has a permanent staff of 16 individuals. In order to oversee bargaining in the more than 230 sets of negotiations which fall under its jurisdiction, the Commission must rely on external human resources. Therefore, in addition to its permanent staff, the Commission utilizes a cadre of more than seventy individuals who are appointed on a contractual basis as third-party neutrals. This arrangement has allowed the Commission to attract and utilize some of the most able third parties in the province.

All appointments and all major decisions and determinations are made by the Commission per se. The day-to-day operations of the Commission, however, are managed by a Chief Executive Officer. The operations of the ERC are divided into two major functions — Field Services and Research Services. (An organizational chart is provided in Figure 1.) Briefly, Field Services monitors negotiation activity at the local level, while Research Services provides data to all parties in negotiations.

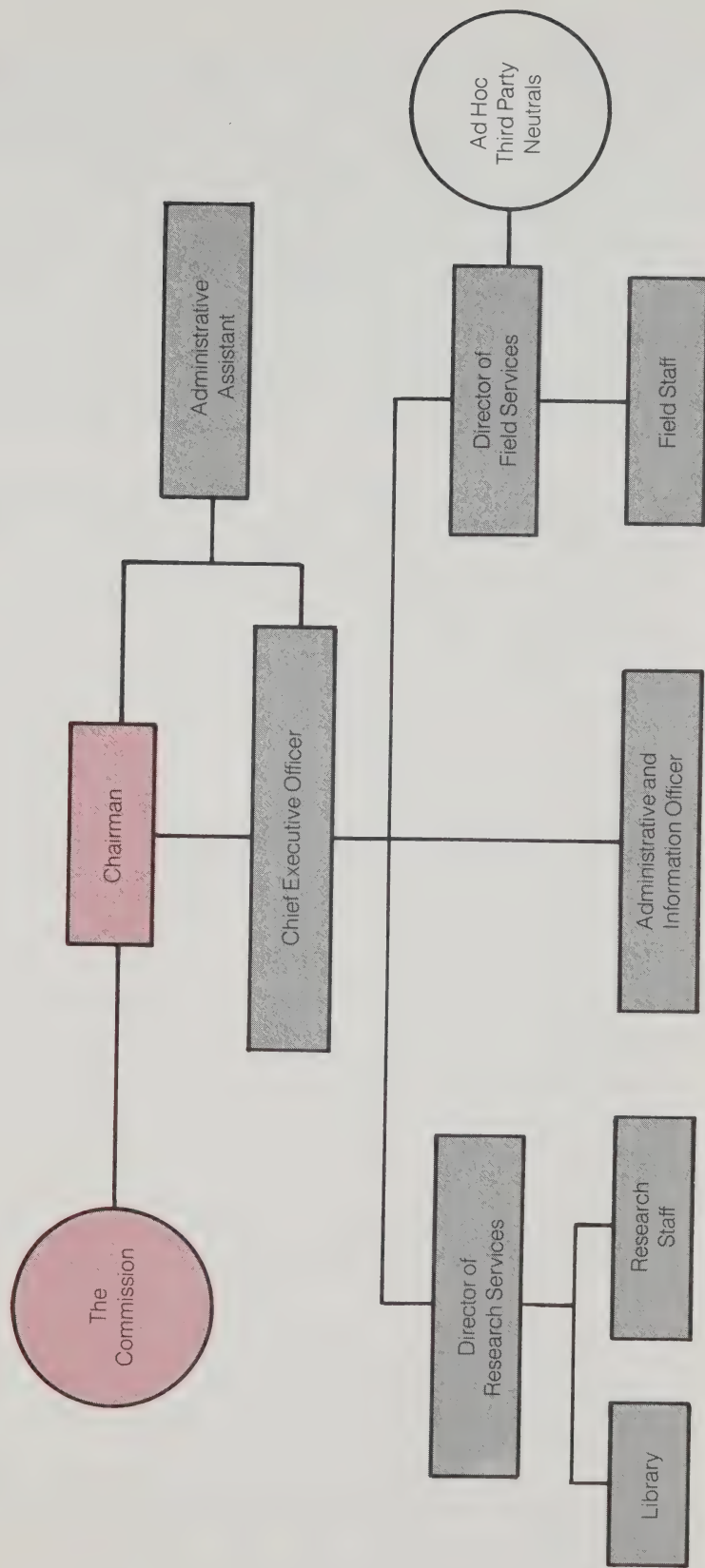
The small size and the extensive experience of its permanent staff, combined with the high calibre of its part-time people, has allowed the Commission to quickly and effectively respond to the needs of the parties and the public.

II THE PARTIES

The parties to negotiations are the 2,200 trustees and the 108,000 teachers who represent and work in the approximately 170 school boards in the province. In general terms, there are two kinds of school boards. The Boards of Education (76) are divided into elementary and secondary panels. The Roman Catholic Separate School Boards (49) provide Catholic elementary education in the province. Until Bill 30 was passed this year the R.C.S.S. Boards did not have a secondary panel. Provincial funding for the R.C.S.S. Boards was provided to grade 10 only. Such Boards offering grades 11, 12 and 13 were actually operating private schools. This, however, will no longer be the case. In June 1984 the Premier announced the extension of funding to secondary schools in Roman Catholic School Boards and for this purpose Bill 30 was proclaimed in June of 1986 (see Section III).

Figure 1

ORGANIZATION CHART: THE EDUCATION RELATIONS COMMISSION



III TEACHER/SCHOOL BOARD BARGAINING IN ONTARIO — A BRIEF HISTORY

On July 18, 1975, legislation granting Ontario teachers the right to bargain collectively and the right-to-strike was enacted in Ontario. Prior to the passage of legislation, which would become known as Bill 100, the Ontario government had proposed legislation which included compulsory arbitration rather than the right-to-strike. In response to the proposed statute (Bill 275), both teacher and trustee organizations, albeit for different reasons, lobbied the Government to include the right-to-strike in the legislation. The right-to-strike became a priority for the teachers because they viewed compulsory arbitration as an ineffective form of dispute resolution. The trustees viewed compulsory arbitration as both an imposition on, and an erosion of, local board autonomy.

Moreover, those who drafted Bill 100 were convinced by events in the education sector as well as other jurisdictions that strike-prohibiting legislation is not always effective. In fact, it was felt that it could have the opposite effect. There was — and is — a feeling by many labour relations experts that legislation prohibiting strikes may expand employer-employee confrontation and magnify their adversarial feelings. The primary reason for proposing Bill 100 was to introduce to the province some stability and order in teacher/board bargaining, and against this background the right-to-strike was included in the legislation.

The need for legislation regarding teacher-board negotiations was obvious in the early 70's. Teachers were demanding the right to collectively bargain such issues as working conditions, grievance procedures and financial matters. Some trustees viewed the collective bargaining process as an infringement of management rights. The net result, in the absence of legislation, was that bargaining took place in a vacuum and that relationships between trustees and teachers were deteriorating both on an individual and organizational basis.

The School Boards and Teachers Collective Negotiations Act, 1975, brought order to this confusion by providing ground rules for collective bargaining. Although the most publicized feature of the Act was the right-to-strike, realistic alternatives such as **voluntary** arbitration or final offer selection were provided at each step in the bargaining process. Events leading to a legal strike or lock-out under the Act were regulated. For example, a strike or lock-out under the Act is not legal until:

- (a) a fact finder has met with the parties and his/her report has been made public; and
- (b) a 30-day cooling-off period takes place after the fact finder's report is submitted to the parties; and
- (c) the teachers have voted-by secret ballot in a supervised vote-on the last offer of the school board; and
- (d) the teachers have voted-by secret ballot in a supervised vote-to take strike action.

Other features of the Act were also significant. Negotiations take place at the county board level between the local teachers' federation(s) and the school board. There are separate negotiations in the elementary and secondary panels of each board. The scope of negotiations is open, i.e., all matters are negotiable. Each collective agreement is deemed to contain a procedure for the binding settlement of disputes arising out of the administration of the agreement if such a procedure has not been negotiated locally, and a strike or a lock-out is illegal during the term of the collective agreement.

Finally, the Act provided for a five-person commission — the Education Relations Commission — to monitor and assist all local negotiations between teachers and school boards and to administer the Act. The Commission was given seven specific functions under Section 60 of the Act which are outlined below:

1. monitoring all negotiations;
2. collecting and providing data to all parties in collective negotiations;
3. assisting the parties in their collective negotiations;
4. training third party neutrals;
5. adjudicating good faith bargaining charges;
6. supervising last-offer, strike and ratification votes;
7. advising the Lieutenant Governor-in-Council concerning jeopardy to students' courses of study in the event of a strike and/or lock-out.

Four years after the passage of Bill 100, the Minister of Education announced in the Legislature the establishment of a Commission to review the collective negotiations process between teachers and school boards. This Commission — referred to as the Matthews Commission — chaired by Dr. B.C. Matthews, then President of the University of Waterloo, submitted its report to the Minister of Education in June of 1980. Based on the experience during the first five years of Bill 100, the Matthews Commission proposed a small but nevertheless significant set of recommendations to change the Act.

Redundant sections of the Act were removed in 1981 during a review of legislation by the Provincial Government. As well, the name of the Act was changed to the **School Boards and Teachers Collective Negotiations Act, Revised Statutes of Ontario, 1980, Chapter 464.**

Teacher-board negotiations were significantly altered when **An Act Respecting the Restraint of Compensation in the Public Sector of Ontario and Monitoring of Inflationary Conditions in the Economy of the Province** (Bill 179) was enacted. Briefly, Bill 179, introduced in the Legislature on September 21, 1982, limited compensation increases in the public sector to up to 9 per cent in the first year of the program (the "transitional" year) and 5 per cent in the second year (the "control" year). The legislation removed the right-to-strike or lock-out and also provided for the formation of the Inflation Restraint Board (IRB) to administer the Act, and to monitor wage and price increases in the public and private sectors.

During 1984-85, the dynamics of teacher-board bargaining were further changed with the introduction of **An Act to Provide for the Review of Prices and Compensation in the Public Sector and for an Orderly Transition of the Resumption of Full Collective Bargaining** (Bill 111). The Act provided for the return to normal forms of dispute resolution, but at the same time changed the parameters of collective bargaining. The Treasurer, in introducing the legislation, indicated the province would limit funding for all public sector compensation increases to provide an average increase of 5 percent. Criteria for increases referred to in the Act were published in **The Ontario Gazette** with a recommended range for salary increases of zero to five percent. This, plus the Treasurer's statement concerning the 5 percent increase in transfer payments, provided narrow boundaries to the parties in public sector negotiations for the 1984-85 bargaining year.

In 1985-86 there was a return to normal collective bargaining. A synopsis of negotiations and the Commission's involvement during the reporting year is contained in Section IV of this report. The most significant event for negotiations during the reporting year was the passage of Bill 30.

The Education Amendment Act, 1986 (Bill 30) was introduced by the Minister of Education on July 4, 1985 and, after much public debate and study, received Royal Assent on June 24, 1986. The provisions of Bill 30 extend full funding for secondary school education to Roman Catholic Separate School Boards which elect to perform the duties of a secondary school board. For this purpose the board must pass a by-law which is subject to the approval of the Minister.

The legislation establishes the Planning and Implementation Commission. Its responsibilities include advising the Minister with respect to specific means by which the extension of Roman Catholic secondary school education may be best carried out.

The provisions of the legislation are likely to have a significant effect on the bargaining structures and relationships between teachers and boards. Comments in this regard are contained elsewhere in this report with respect to the Cochrane-Iroquois Falls good faith determination. (see Section IV(7)).

Since the legislation contemplates the transfer of a large number of secondary school students from schools operated by Boards of Education (public school boards) to schools operated by a new entity created by the bill called a Roman Catholic School Board, it was necessary to build into the legislation certain safeguards for those teachers and other employees of Boards of Education whose positions disappear as a direct result of the transfer of students.

A public school board is required in each of the first ten years to designate the persons on its staff whose services will not be required by the public board because of the election by the Roman Catholic School Board to perform the duties of a secondary school board. Designation is on the basis of seniority. Designated persons have certain guaranteed rights. These are as follows:

- the individual teaching contract or employment contract or employment relationship must be assumed by the Roman Catholic School Board;

- the person, whose employment contract is assumed by the Roman Catholic School Board must be employed in a position substantially similar to the position in which the person was previously employed;
- if there is no similar position available, the person is entitled to training for an alternate position and is to be retained on staff;
- if a designated person objects for reasons of conscience, the public school board is required to designate another person unless it is of the opinion that the objection is not made in good faith;
- a designated person is entitled in the first year to an annual salary of not less than the salary which would have applied had he/she not transferred;
- a designated person maintains seniority and probationary or permanent status whichever applies;
- sick leave credits are transferred;
- if upon the termination of employment the designated teacher is eligible for a retirement gratuity, the amount payable is shared by both boards in the ratio that the number of years with each board bears to the total years of service of the designated teacher.
- the Human Rights Code applies to the designated person with respect to advancement or promotion notwithstanding Section 23 of the Code.

Designated persons must agree to respect the philosophy and traditions of Roman Catholic School Boards in the performance of their duties.

Disputes in respect of designation or of failure to designate may be resolved by the grievance arbitration procedure outlined in Section 136m of the legislation. Parties to a grievance are the public board or the Roman Catholic school board and the organization that represents the person where the person is employed in accordance with the terms of a collective agreement.

The Education Relations Commission has a role to play in this procedure. If one of the parties fails to give notice accepting a single arbitrator or appointing a second arbitrator, the Education Relations Commission appoints at the request of either party.

Consent of the Education Relations Commission is required for an arbitration board to extend the time for a decision beyond the statutory sixty (60) days.

Both the trustees and the teachers are organized in a group of organizations under a parent body. For the teachers, the parent body is the Ontario Teachers' Federation (OTF). This organization is made up of representatives of:

1. The Federation of Women Teachers' Associations of Ontario (FWTAO);
2. The Ontario Public School Teachers' Federation (OPSTF); *
3. The Ontario Secondary School Teachers' Federation (OSSTF);
4. The Ontario English Catholic Teachers' Association (OECTA);
5. L'Association des enseignants franco-ontariens (AEFO).

Bargaining rights reside with the branch affiliates of the above bodies.

The trustee parent organization is the Ontario School Trustees' Council (OSTC) which is composed of representatives from:

1. The Association of Large School Boards of Ontario (ALSBO);
2. The Ontario Public School Trustees' Association (OPSTA);
3. The Ontario Separate School Trustees' Association (OSSTA);
4. L'Association française des conseils scolaires de l'Ontario (AFCSO);
5. The Northern Ontario School Trustees' Association (NOSTA).

*Changed from Ontario Public School Men Teachers' Federation at annual conference in August, 1982. (OPSMTF)

IV NEGOTIATIONS

During 1985-86, there were collective agreements covering the terms and conditions of employment of approximately 100,000 teachers in Ontario. The number of school boards and the branch affiliates by type, and the number of teachers employed by those boards, are summarized in Table 1.

Table 1 School Boards, Branch Affiliates, and Teachers in Ontario, 1985-86

Board Classification	Number of Boards	Number of Branch Affiliates					
		FWTAO	OPSTF	OECTA	AEFO	OSSTF	FOPSAT***
Boards of Education	76*	76	76	—	26	76	—
Metro. Toronto School Board*	1	1	1	—	—	—	—
County and District Combined Roman Catholic School Boards	49	—	—	48	40	—	—
Other Public School Boards	23	23	23	—	—	—	—
Other Separate School Boards**	10	1	1	4	5	—	—
Secondary School Boards	1	—	—	—	—	1	—
Boards on Crown Lands, Hospital and Hydro Centres and the Provincial Schools Authority	9	8	8	—	4	3	1
Total	169	109	109	52	75	80	1
Number of Teachers	108,318	30,784	14,218	22,626	5,359	35,331	378

*The Metropolitan Toronto School Board, which operates schools for the trainable retarded, does not operate elementary and secondary schools as such; however, its teachers are members of the elementary school branch affiliates, FWTAO and OPSTF.

**Includes one Protestant Separate School Board

***Federation of Provincial Schools Authority Teachers

1. Renewals under the Act

It should be noted that the number of negotiations during any given year will vary because of the existence of multi-year agreements. That is, under ordinary circumstances not every collective agreement comes up for renewal in each year. As noted in Table 2, 192 of 239 jurisdictions were subject to negotiations in 1985-86.

Table 2 Status of Negotiations, 1985-86

Board Classification	Not Subject to Negotiation *	Subject to Negotiation
Boards of Education — Elementary	17	59
Board of Education — Secondary	20	56
County and District Combined Roman Catholic Separate School Boards	8 ¹	42 ²
Other School Boards	2	35
Total	47	192

* Concluded a multi-year settlement during a previous year.

1. Includes Stormont, Dundas and Glengarry RCSS (AEFO)

2. Includes Stormont, Dundas and Glengarry RCSS (OECTA), Carleton OECTA and Carleton AEFO

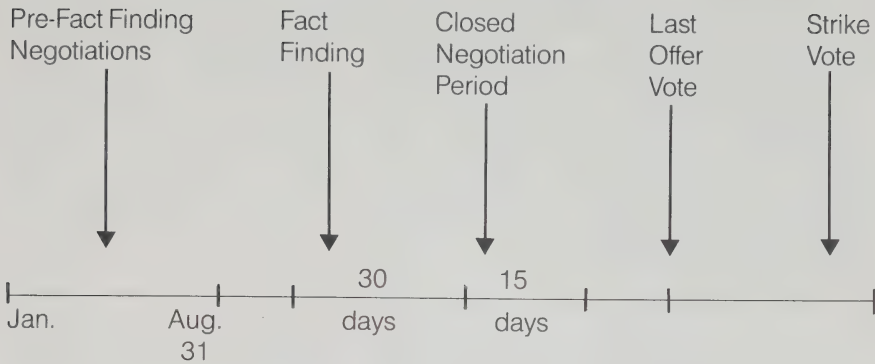
2. Third-Party Appointments

Figure 2 sets forth the possible stages in negotiations under Bill 100. The Act specifies that all collective agreements expire on August 31. If there are to be negotiations to renew the collective agreement, one of the parties is required to give its intent to negotiate to the other party and to the Commission in January of that year.

Negotiations between the parties typically occur from January to August without intervention from the ERC but if a settlement has not been reached by August 31, a mediator and/or a fact finder is appointed by the Commission to assist the parties. While mediation is voluntary, a fact finder must be appointed if an agreement has not been reached by August 31.

While it is possible for mediation and fact finding to occur *prior* to August 31, the more typical pattern is that portrayed in Figure 2. If a fact finder is appointed he/she has 30 days to hold a hearing with the parties and file a written report with the Commission and the parties. The report remains confidential for a 15-day period. If no settlement is reached during the 15 days, the report is released to the public. The teachers are then in a position to request Commission-supervised votes on acceptance or rejection of the school board's last offer and on the matter of strike.

Figure 2.
Negotiation Stages under Bill 100



(a) Fact Finding

Fact finding affords an opportunity for the parties to clarify and narrow the differences which exist between them in order to reach a settlement when the collective agreement expires. As noted, the process becomes mandatory once August 31 has passed (the contract expiry date in all teacher/school board collective agreements). Further, it is a necessary procedure under the Act before teachers can take strike action or before a school board can initiate a lock-out. The fact finding process also recognizes the public's right to know the substantive, procedural and attitudinal issues of a dispute prior to any possible interruption to the normal school program.

The Commission may appoint a fact finder at any time during negotiations either upon the request of one or both parties, or if the Commission deems that the parties are at an impasse and would benefit from such assistance. The fact finder, a third party neutral, investigates the particular local situation and then files a written report with the Commission. A time limit of thirty days is established in the Act for the fact finder to meet with the parties, examine their written submissions, listen to oral arguments, write the report and submit it to the Commission. The Commission, in turn, delivers the report to the parties.

The report must set out those matters upon which the parties have agreed as well as those upon which they have not agreed. A fact finder may make recommendations regarding any matter which he or she feels is relevant and on any of the items in dispute. The fact finder's recommendations, while not binding upon the parties, often narrow their differences, or are accepted by the parties in whole or in part.

It is clear from experience in the years since the passage of the Act that fact finding has the potential to assist and, in many cases, actually has assisted the parties in reaching negotiated settlements. To date, the Commission and the parties have generally found it to be a useful process which has worked reasonably well. At the same time, there were observations made before the Matthews Commission that not only were negotiations far too long but also that, in some cases, fact finding had contributed to the delay. There were also submissions that fact finding in some instances was ineffective and perhaps over-utilized by some of the parties.

We have reported before that under any labour legislation (including Bill 100), there is a very real danger that a process such as fact finding will be ignored or misused by the parties, thereby weakening the philosophical thrust of the Act and undermining its effectiveness. As a consequence, the Commission has encouraged the parties to utilize fact finding only if absolutely necessary. Its preference, wherever possible, is to have the parties settle prior to the point when, under the Act, the Commission must appoint a fact finder. Also, the Commission has attempted to strengthen the fact finding process. It has conveyed to its third parties that a meaningful fact finder's report is an essential part of the process — one which addresses in a concrete way the substantive and procedural issues in a dispute.

Table 3 Fact Finder Appointments, Reports Released to Parties and Reports Made Public, 1985-86

Board Classification	Fact Finder Appointments	Reports Released to Parties	Reports Made Public
Boards of Education — Elementary	21 ¹	16	15
Board of Education — Secondary	28 ²	24	20
County and District Combined Roman Catholic Separate School Boards	22 ³	19	15
Other School Boards	10	3	3
Total	81	62	53

1. Includes Metropolitan Toronto Elementary Central and Metropolitan Toronto Trainable Retarded.
2. Includes Metropolitan Toronto Secondary Central
3. AEFO and OEFTA counted separately in Sudbury RCSS and Carleton RCSS

Last year, the results with respect to fact finding were troubling in that the Commission had to appoint a total of 130 fact finders. That is, out of a total of 227 sets of negotiations 57 per cent or 130 required a fact finder appointment. This represented one of the highest totals in both absolute and relative terms since the inception of the Commission. On this matter, in its Annual Report the Commission stated:

...the high number of appointments was not a surprise. That is, the 1984-85 results may simply be the result of bargaining inactivity [due to the **Inflation Restraint Act**]. On the other hand, the rate may be an indication that the legislation should be examined once again.

Against this background the results for the reporting year with respect to fact finding are encouraging. Table 3 lists the number of fact finder appointments for 1985-86. Out of 192 sets of negotiations just 81, or 42 per cent, required a fact finder appointment. As revealed in Table 4, in relative terms there has been a return to the more typical experience since the inception of Bill 100.

Table 4 Fact Finder Appointments, Reports Released to Parties and Reports made Public 1976-77 to 1985-86

Year	No. of Situations Negotiating	Fact Finder Appointments	Reports Released to Parties	Reports Made Public
1976-77	189	71 (37.6%)	51 (27.0%)	39 (20.6%)
1977-78	210	63 (30.0%)	54 (25.7%)	42 (20.0%)
1978-79	207	114 (55.1%)	95 (45.9%)	69 (33.3%)
1979-80	180	109 (60.5%)	86 (47.8%)	77 (42.8%)
1980-81	132	49 (37.1%)	43 (32.6%)	34 (25.8%)
1981-82	168	50 (29.8%)	37 (22.0%)	29 (17.3%)
1982-83	173	62 (35.8%)	52 (30.1%)	48 (27.7%)
1983-84	178	0	0	0
1984-85	227	130 (57.3%)	108 (47.6%)	92 (40.5%)
1985-86	192	81 (42.2%)	62 (32.3%)	53 (27.6%)

(b) Mediation Appointments

Mediators, or "persons to assist" as they are referred to under Section 13 of the Act, can be appointed at any time, either at the direction of the Commission or, with Commission concurrence, at the request of one or both parties. Table 5 sets forth the number of mediators appointed in 1985-86 and in each bargaining round since the inception of the Act. Mediators were appointed in 49 situations in the 1985-86 bargaining year, or in slightly more than 25 per cent of the cases. This represents a very significant improvement over the previous year when more than 42 per cent of the cases required mediation.

Table 5 Appointment of Mediators, 1975-76 to 1985-86

	Total number of negotiations conducted	Mediators appointed Number	Percent of Total Number of negotiations conducted
1975-76	205	51	25.0
1976-77	189	38	20.1
1977-78	210	58	27.6
1978-79	207	72	34.8
1979-80	180	63	35.0
1980-81	132	35	27.3
1981-82	168	47	28.0
1982-83	173	50	28.9
1983-84	178	5	2.8
1984-85	227	96	42.3
1985-86	192	49	25.5

As indicated in Table 6, no mediation was required in 143 of the 192 negotiations or in 74% of the cases. Again the results represent a return to more normal activity. (see Table 7). Also, as indicated in Tables 6 and 7 only one case (0.5 per cent) required mediation both before and after fact finding.

Table 6 Assignment of Mediators, 1985-86

Board Classification	No. of Situations Negotiating	No Mediation	Mediation Only	Mediation Pre Fact Finding Only	Mediation Post Fact Finding Only	Mediation both Pre and Post Fact Finding
Board of Education — Elementary	59	50	3	1	5	—
Board of Education — Secondary	56	32	4	9	10	1
County & District Combined Roman Catholic Separate	42 ¹	30	1	—	11	—
Other School Boards*	35	31	—	—	4	—
Total	192	143	8	10	30	1

* Includes Metro Toronto Central & Metro Trainable Retarded

1. Includes Stormont, Dundas and Glengarry RCSS (OECTA).

Table 7 Assignment of Mediators, 1976-77 to 1985-86

Year	No. of Situations Negotiating	No Mediation	Mediation Only	Mediation Pre Fact Finding Only	Mediation Post Fact Finding Only	Mediation both Pre and Post Fact Finding
1976-77	189	151 (79.9%)	7 (3.7%)	2 (1.0%)	28 (14.8%)	1 (0.5%)
1977-78	210	152 (72.3%)	21 (10.0%)	3 (1.4%)	24 (11.4%)	10 (4.7%)
1978-79	207	135 (65.2%)	9 (4.3%)	7 (3.4%)	47 (22.7%)	9 (4.3%)
1979-80	180	117 (65.0%)	4 (2.2%)	3 (1.7%)	46 (25.5%)	10 (5.5%)
1980-81	132	97 (73.5%)	9 (6.8%)	3 (2.8%)	21 (15.9%)	2 (1.5%)
1981-82	168	121 (72.0%)	16 (9.5%)	10 (5.9%)	17 (10.1%)	4 (2.4%)
1982-83	173	123 (71.1%)	13 (7.5%)	20 (11.5%)	14 (8.1%)	3 (1.7%)
1983-84	178	173 (97.2%)	5 (2.8%)	0	0	0
1984-85	227	131 (57.7%)	22 (9.7%)	16 (7.0%)	48 (21.1%)	10 (4.4%)
1985-86	192	143 (74.5%)	8 (4.1%)	10 (5.2%)	30 (15.1%)	1 (0.5%)

Table 8 shows the number of jurisdictions which received either fact finding or mediation assistance. Again, a significant decrease from the previous year is in evidence. In 1984-85 67% of the jurisdictions experienced either a fact finding or mediation appointment. This dropped to 46% in 1985-86.

Overall, therefore, there was a very significant drop in the amount of third-party intervention.

Table 8 Jurisdictions which received either Fact Finding or Mediation Assistance 1976-77 to 1985-86

Year	No. of Situations Negotiating	Fact Finder Appointments	Mediation Appointments	Total	%
1976-77	189	71	7	78	41.3
1977-78	210	63	21	84	40.0
1978-79	207	114	9	123	59.4
1979-80	180	109	4	113	62.8
1980-81	132	49	9	58	43.9
1981-82	168	50	16	66	39.3
1982-83	173	62	13	75	43.3
1983-84	178	0*	5	5	2.8
1984-85	227	130	22	152	67.0
1985-86	192	81	8	89	46.3

*No negotiations due to Provincial Restraint Legislation.

3. Supervised Votes: Last Offer, Strike and Ratification

Prior to any strike activity, the teachers must first request (in writing) the Board's last offer concerning all matters agreed upon and all matters remaining in dispute. A secret ballot vote on the Board's last offer must then be conducted under the Commission's supervision. If the teachers reject this offer, a second secret ballot vote to determine whether the teachers favour a strike may then be held, again under the supervision of the Commission. Any ratification vote ending a strike also must be supervised by the Commission.

Table 9 contains the number of last offer, strike and ratification votes conducted by the Commission over its ten year history including the 1985-86 round. A total of 28 votes — 15 last offer, 10 strike and 3 ratification — were supervised by the Commission.

The number of last offer and strike votes represents the negotiations which go, or almost go, to sanction. That is, last offer and strike votes are an index of the degree of difficulty of negotiations in a particular negotiation round. In this light the results for 1985-86 again are reassuring. The number of votes in 1985-86 are relatively low compared with the number in the previous ten years (taking into account the total number of negotiations in each year) and in particular compared to the number of votes in 1984-85.

Table 9 Supervised Board's Last Offer, Strike and Ratification Votes, 1975-76 to 1985-86

Vote	75-76	76-77	77-78	78-79	79-80	80-81	81-82	82-83	83-84	84-85	85-86	Total
Board's Last Offer Votes												
Elementary	—	—	2	1	1	—	—	—	—	3	1	1
Secondary	15	5	8	9	12	1	7	4	—	23	7	7
R.C.S.S.	—	5	5	3	12	3	5	—	—	13	7	7
Other	—	—	—	1	1	1	—	—	—	—	—	—
Total	15	10	15	14	26	5	12	4	—	39	15	155
Strike Votes												
Elementary	—	—	1	1	1	—	—	—	—	—	1	1
Secondary	15	4	7	4	9	1	5	1	—	16	4	4
R.C.S.S.	—	1	4	2	7	2	5	1	—	7	5	5
Other	—	—	—	1	1	—	—	—	—	—	—	—
Total	15	5	12	8	18	3	10	1	—	23	10	105
Ratification Votes												
Elementary	—	—	—	—	2	—	—	—	—	—	—	—
Secondary	—	1	5	2	4	2	3	—	—	2	2	2
R.C.S.S.	—	—	1	—	2	1	2	—	—	3	1	1
Other	—	—	—	—	—	—	—	—	—	—	—	—
Total	—	1	6	2	8	3	5	—	—	5	3	33
Total Vote by Year	30	16	33	24	52	11	27	5	—	67	28	293

Note: Boards of Education within Metropolitan Toronto counted individually

4. Strikes, Lock-outs and School Closings

From the 192 sets of negotiations referred to in Table 2, four resulted in sanctions (see Table 10). There were strikes in three secondary school panels: Grey County, Lennox and Addington County and Wellington County; and a further strike by teachers employed by the Metropolitan Separate School Board.

The withdrawal of services by teachers employed by the Metropolitan Separate School Board involved the largest single bargaining unit in the Province (approximately 5,800 teaching staff) and affected more than 95,000 students. The strike lasted five school-days and was settled with the assistance of a mediator appointed by the Commission.

The strike by secondary school teachers employed by the Lennox and Addington County Board of Education involved 11 instructional days; 3 of which were of a “work-to-rule” nature.

The two most protracted interruptions of school programs, each of which occurred in the Fall of 1985 after well in excess of a year of unsuccessful negotiations, were in Grey County (42 instructional days) and Wellington County (50 instructional days). In Grey County, the final settlement was arrived at with the assistance of a mediator appointed by the Commission. Four months after the strike, the parties participated in a Commission-sponsored Relationships by Objectives workshop.

On September 16, 1985 the secondary school teachers employed by the Wellington County Board of Education commenced a sanction against the board in the form of complete withdrawal of services. Prior to the sanction, negotiations were conducted for a period of 22 months. During the negotiations the Commission appointed a fact finder and two mediators to assist the parties. The fact finder’s report was comprehensive and included specific recommendations with respect to terms for settlement. The first mediator appointed by the Commission spent more than 140 hours with the parties during the period March 1985 to June 1985.

A second mediator was appointed on June 27, 1985 and spent more than 300 hours assisting the parties, 200 of which were spent after the sanction commenced. At one point during mediation, the mediator presented to the parties a comprehensive “mediator’s proposal” in an unsuccessful effort to resolve the dispute on a fair and reasonable basis.

On Tuesday, November 19, 1985 the parties were requested by the Education Relations Commission to undertake further intensive negotiations with the mediator in Toronto. Negotiations commenced on Thursday November 21, 1985 and broke down on the same day. The mediator reported to the Education Relations Commission that no significant progress was made and that negotiations were at an impasse.

On Friday November 22, 1985 in accordance with the provisions of Section 60(i)(h) of the **School Boards and Teachers Collective Negotiations Act**, the Education Relations Commission advised the Lieutenant Governor in Council

Table 10 **Strikes, Lock-Outs and Closing of Schools, 1985-86**
September 1, 1985 to August 31, 1986

Board	Number of Schools	Number of Full Time Equivalent Teachers	Number of Full Time Equivalent Students	Type of Sanction	Duration of Sanction	Final Settlement
Grey Secondary	5	304	4,723	Full withdrawal 42 Inst. days	Mon. Sep. 23-Wed. Nov. 10/85	Negotiated with Mediation Assistance
Wellington Secondary	9	533	7,821	Closing of all schools Full withdrawal and closing of one school 50 Inst. days	Mon. Sept. 16-Tue. Sep. 17/85 Mon. Sept. 16-Tue. Nov. 26/85	Legislated
Lennox & Addington Secondary	3	169	2,472	Full withdrawal (8 Inst. days) Work to Rule (3 Inst. days)	Tue. Mar. 18-31/86	Negotiated with Mediation Assistance
Metropolitan Separate School Board	219	5,340.3	94,844	Full withdrawal (5 Inst. days)	Mon. Apr. 7-Sun. Apr. 13/86	Negotiated with Mediation Assistance

that, in the opinion of the Commission, the continuance of the strike by the secondary school teachers in Wellington County would place in jeopardy the successful completion of courses of study of the students attending the secondary schools operated by the Wellington County Board of Education.

On November 25, 1985 the Minister of Education introduced Bill 63 (**An Act respecting The Wellington County Board of Education and Teachers Dispute**). The Bill, which received Royal Assent on November 26, 1985, terminated the strike and contained an innovative provision which required the parties to execute a document in the form of an agreement containing all the matters agreed to by the parties and all of the recommendations made by the mediator in the mediator's proposal mentioned earlier.

In both Grey and Wellington Counties the relationship between the Boards and the secondary school teachers has improved and in each case in the current round of negotiations a two-year agreement covering the period 1986-88 has been reached.

During the previous year and as reported in the 1984-85 Annual Report, the members of the Ontario Secondary School Teachers' Federation employed by the Hamilton Board of Education engaged in a strike. The first 10 days were characterized as a work-to-rule by the Branch Affiliate. The school board took the position that the action of the teachers went beyond a work-to-rule as the school day had been shortened to less than the length of time required by Ministry of Education regulations. After considerable efforts by the Commission, an arbitration procedure acceptable to both sides was devised to decide this matter. The arbitration award dated April, 1986, found that —

... the conduct of the teachers viewed in total constituted a strike within the meaning of the act since it attempted to limit, restrict, curtail or interfere with the operation or functioning of the school. The activity did not constitute a work-to-rule as that term is understood.

The result of such a finding was that the teachers involved were not able to receive any compensation for the period they conducted the strike.

A complete record of sanctions since the passage of the Act is included in Appendix B.

5. Voluntary Binding Arbitration/Final Offer Selection

At any time during negotiations, the parties can mutually agree to choose one of two options of third-party resolution: voluntary binding arbitration or final offer selection. If a negotiated settlement is reached at any time during these procedures, the process is automatically terminated. As indicated in Table 11 voluntary binding arbitration was used in just 3 cases and final offer selection was used in one case. The following is a description of the process involved in each of these options.

(a) Voluntary Binding Arbitration

Under the voluntary binding arbitration procedure, the parties may refer all matters remaining in dispute to either an arbitrator or a board of arbitration. Within 7 days of the appointment of the arbitrator or chairman of the arbitration board each party must submit to the other party and to the arbitrator/chairman, written notice of all matters agreed upon during negotiations and all matters remaining in dispute. The arbitrator or board of arbitration is responsible for determining procedures which give both parties full opportunity to present their evidence and make their submissions.

Table 11 Agreements Reached by Voluntary Binding Arbitration or Final Offer Selection, 1985-86

Board Classification	Agreements Reached by Voluntary Binding Arbitration	Agreements Reached by Final Offer Selection
Boards of Education		
— Elementary	2	—
Board of Education		
— Secondary	1	—
County and District		
Combined Roman Catholic Separate School Boards	—	1
Other School Boards	—	—
Total	3	1

Within 60 days of the appointment of the arbitrator/chairman, or such longer period of time as the two parties may agree to, the arbitrator or board of arbitration must provide the parties with a written report of his/its decision. The decision of the arbitrator or board of arbitration is final and binding and the parties are required, within 30 days following receipt, to incorporate within a signed agreement the matters agreed to in negotiations and the decision rendered through arbitration.

(b) Final Offer Selection

Under this resolution procedure, each party's final position concerning the items remaining in dispute, together with any supporting evidence, is presented to a selector and the other party within 15 days of appointment of the selector. The parties may then provide written responses to the other party's position and the selector may hold a hearing.

Within 15 days of the hearing (or notice from the parties to dispense with the hearing), the selector must choose one party's final offer *in its entirety*. This offer is then incorporated into an agreement which also includes those items agreed to by the parties during negotiations.

6. Grievance Arbitration

Grievance procedure clauses in some collective agreements specify that the Commission be asked to appoint a single arbitrator or chairman of an arbitration board to resolve a grievance as the final and binding step of the procedure.

During 1985-86, the Commission made 10 such appointments, 5 were chairmen of arbitration boards, and 5 were single arbitrators (see Table 12).

Table 12 Appointments Concerning Grievance Arbitration, 1985-86		
Board Classification	Number of Appointments By ERC	Nature of Appointments
Boards of Education — Elementary	0	
Board of Education — Secondary	4	2 Single Arbitrators 2 Chairmen
County and District Combined Roman Catholic Separate — School Boards	5	3 Single Arbitrators 2 Chairmen
Other School Boards	1	1 Chairman
Total	10	

Figures since 1976-77 are presented in Table 13.

Table 13 Appointments Concerning Grievance Arbitration 1976-77 to 1985-86

Year	No. of Appointments by E.R.C.
1976-77	9
1977-78	13
1978-79	13
1979-80	8
1980-81	14
1981-82	3
1982-83	3
1983-84	7
1984-85	8
1985-86	10

7. Determination of Good Faith Bargaining

Several complaints of failure to bargain in good faith were placed before the Commission during 1985-86 (see Table 14). Hearings were held with respect to the Cochrane-Iroquois Falls District Roman Catholic Separate School Board on May 21 and 22, 1986 and determinations were issued on July 23 and July 31, 1986.

On June 26, 1986 a hearing was held in the case involving Canadian Forces Base Petawawa Board of Education and a determination was issued on August 29, 1986.

The cases involving the Cochrane-Iroquois Falls District Roman Catholic Separate School Board arise from new historic developments in Ontario education. As indicated in Section III, the **Education Amendment Act, 1986** (or Bill 30) was introduced by the Minister of Education on July 4, 1985 and received Royal Assent on June 24, 1986. The provisions of Bill 30 extend full funding for secondary schools operated by Roman Catholic School Boards in cases where separate school boards elect to provide a full secondary school program.

Since 1977 the Cochrane-Iroquois Falls District Roman Catholic Separate School Board has negotiated with its teachers who are members of the Ontario English Catholic Teachers' Association (hereinafter referred to as the Branch Affiliate of OECTA) and teachers who are members of L'Association des Enseignants Franco-Ontariens (hereinafter referred to as the Branch Affiliate of AEFO) through a joint committee. Each collective agreement over the period has been between the Board and *both* Branch Affiliates rather than between the Board and each individual Branch Affiliate. The agreement included a provision which the Board claimed was an ongoing commitment binding the Affiliates to negotiate as one entity until such time as the provision was negotiated out of the collective agreement. At the beginning of the 1985-86 negotiating year the two Affiliates filed a notice with the Board indicating a desire to negotiate separately. The local Affiliate of A.E.F.O. further indicated an intention to bargain at both the elementary and secondary levels and to conclude a separate collective agreement at each level.

Table 14 Good Faith Bargaining Charges, 1985-86

Complainant	Respondent	Disposition
Branch Affiliate of OSSTF*	Timiskaming Board of Education	Withdrawn
Branch Affiliate of OPSTF*	Sault Ste. Marie Board of Education	Withdrawn
Branch Affiliates of OECTA and AEFO*	Durham Region RCSS Board	Withdrawn
Branch Affiliate of AEFO	Sudbury RCSS Board	Resolved
Branch Affiliates of OPSTF and FWTAO	Perth County Board of	Withdrawn
Branch Affiliate of OECTA	Cochrane-Iroquois Falls RCSS Board	Upheld
Branch Affiliate of AEFO	Cochrane-Iroquois Falls RCSS Board	Upheld
Cochrane-Iroquois Falls District RCSS Board	Branch Affiliates of AEFO and OECTA	Dismissed
Branch Affiliates of OPSTF, FWTAO and OECTA	CFB Petawawa Board of Education	Upheld
Branch Affiliates of OSSTF	CFB Petawawa Board of Education	Upheld

*Initiated during 1984-85

As a result of the Board's refusal to enter into three separate sets of negotiations the teachers of both Affiliates requested a determination regarding good faith bargaining. Due to the teachers' refusal to enter into a single set of negotiations jointly the Board requested a determination regarding good faith bargaining.

In the first determination issued on July 23, 1986 the Commission stated:

... with the passage of Bill 30, there is ample justification for the Branch Affiliates to reconsider such a commitment and the School Board was given adequate notice of their intention to bargain separately.

We find, therefore, that the School Board has negotiated improperly by pursuing to impasse its demand for joint negotiations by the Branch Affiliates. Overall, we find that the School Board's actions related to joint negotiations are inconsistent with the regime of collective bargaining provided for in the Act and the establishment of harmonious relations contemplated by the Legislature.

In the result and pursuant to Section 60(1)(f) it is our view that the School Board is in violation of Section 11 of the Act and accordingly we determine and direct that it shall negotiate with the Branch Affiliates as separate entities.

In considering the intention of the local Affiliate of A.E.F.O. to bargain at both the elementary and secondary levels, the Commission was required to reconcile the provisions of the **Education Act**, the **Education Amendment Act** and the **School Boards and Teachers Collective Negotiations Act** with respect to the right of the local Affiliate of A.E.F.O. to bargain for separate collective agreements at both the secondary and elementary levels.

In a determination issued on July 31, 1986 the Commission commented as follows:

... we find, therefore, that a "Roman Catholic school board" has, for the purpose of Bill 100, a "secondary school board" for secondary school purposes and has, for the purpose of Bill 100, a "Roman Catholic separate school board" for separate (i.e., elementary)-school purposes; just as a "public board" for the purposes of Bill 100 has, under the provision of Section 1(42)(a) and 55(1)(3) of the **Education Act**, a "public school board" for public (i.e., elementary) school purposes and a "secondary school board" for secondary school purposes.

Any other interpretation of the meaning of Bill 30 leads to absurd results. We cannot ignore the fact that a new entity has been created — a "Roman Catholic school board." No reference is made to such a board in Bill 100. If, on the one hand, a "Roman Catholic separate school board" no longer exists then all Ontario school teachers in the Roman Catholic system teaching in elementary schools would lose their rights under Bill 100. If a "Roman Catholic separate school board" no longer exists at a newly created "Roman Catholic school board," then *elementary* school teachers *at those boards* would lose their bargaining rights.

... our findings suggest themselves in another respect, as well. One of the stated purposes of Bill 30 contained in the preamble to the Bill itself was —

...to bring the provisions of the law respecting Roman Catholic separate schools *into harmony with* the provisions of the law respecting public elementary and secondary schools... (emphasis added)

Our interpretation of Bill 30 and its meaning for Bill 100 harmonizes in that regard. We are left with two systems parallel in every respect, *including labour relations*, with one exception, viz., one system offers denominational education and the other does not.

On the basis of this reconciliation of the **Education Act**, the **Education Amendment Act** and the **School Boards and Teachers Collective Negotiations Act** the Commission determined as follows:

... the Branch Affiliate of AEFO clearly meets the definition of a branch affiliate under Bill 100 and has the jurisdiction under the *Teaching Profession Act* and the *By-Laws of the Ontario Teachers' Federation* to negotiate for its members with the "Roman Catholic separate school board" and the "secondary school board" of the Complainant. We find, therefore, that the Branch Affiliate of AEFO has not negotiated improperly by pursuing its demand for separate negotiations for its separate (i.e., elementary) and secondary school members. This demand is consistent with the purposes and intent of Bill 100.

In the result, the Branch Affiliate of AEFO is not in violation of the **School Boards and Teachers Collective Negotiations Act**. The complaint is dismissed and the Branch Affiliate of AEFO can proceed with negotiations at two levels.

In accordance with the provisions of Section 60(1)(f) the branch affiliates of F.W.T.A.O., O.P.S.T.F., A.E.F.O. and O.S.S.T.F. requested a determination that the Canadian Forces Base Petawawa Board of Education had failed to bargain in good faith during the 1985-86 round of bargaining.

The complaint had its origin in a policy statement entitled Canadian Forces Administrative Order (CFAO) 54-4 which includes the following:

Salary agreements for school staff shall be on a *parity with those of comparable schools in the municipality* in which the defence establishment is located. Salary agreements shall be prepared and submitted to NDHQ/DGDEP in accordance with instruction issued by NDHQ.

In its negotiations the School Board took the position that 'parity' means the salary grid applicable to the teachers employed by the Renfrew County Board of Education plus \$200 at each salary position. The "Renfrew plus \$200" concept was referred to extensively during negotiations. It should be noted that at the time of the hearing and the publication of the determination Renfrew County Board of Education had not concluded a collective agreement with the elementary school teachers in its employ.

The complainants alleged that the respondent's negotiating behaviour with respect to the issue of salaries is in violation of Section 11 of the **School Boards and Teachers Collective Negotiations Act**. Section 11 provides:

The parties shall meet within thirty days from the giving of notice and they shall negotiate in good faith and make every reasonable effort to make an agreement or to renew the agreement, as the case requires.

In its determination the Commission made it clear that the Respondent in this case had negotiated in good faith on all issues *except salary*. The Commission, however, went on to find that the School Board's negotiating behaviour is in violation of Section 11:

... we are of the view then that, although well-intentioned and well-mannered, the respondent approached negotiations on salary *from the start* with a view that was not only fixed but also intransigent... the Respondent's bargaining posture clearly is driven by the guidelines.

... This determination, however, does not mean that the respondent cannot negotiate with a view to following a provincial, or for that matter, a regional pattern. Quite the contrary, there is ample salary data supplied by the Commission to allow the parties to negotiate with reference to the broad developments in Ontario education. Fairly early in the process, negotiators are able to discuss salary knowing what the approximate range on salaries and salary increases will be.

... However, the evidence shows that the Respondent entered negotiations with a closed mind on the matter of salary. As a result of the Respondent's negotiating behaviour the issue was, in effect, removed from the bargaining table. Moreover, finality to C.F.B. Petawawa negotiations depended entirely and specifically on the pace of negotiations at another bargaining table. Under such conditions, the ultimate salary package is unknown to the parties until a settlement is reached elsewhere. Against this background, it is extremely difficult, it not impossible, to have a rational discussion when, as a negotiator, you do not know the contents of the School Board's offer until another "bargaining table" settles.

... in this case, it is evident that the School Board has abdicated its bargaining responsibility to another institution — the Renfrew County Board of Education.

The Commission therefore concluded:

... in the result and pursuant to Section 60(1)(f) it is our view that the Respondent is in violation of Section 11 of the Act and accordingly we determine and direct that it shall negotiate with the Complainants in accordance with the requirements of Section 11.

8. Advisements

During the 1985-86 negotiation round the Commission issued one advisement (Wellington Secondary) concerning its obligation to advise the Lieutenant Governor in Council when in its opinion the continuation of a strike, lock-out, or closing of schools would place in jeopardy the successful completion of courses of study by students. Further details with respect to this are contained in Section IV(4) of this report.

9. Duration of Agreements and the 1986-87 Round

Relatively few collective agreements in 1984-85 were two year agreements so that 192 sets of negotiations took place in 1985-86. In 1985-86, 55 agreements were for two or more years (see Table 15) so that the level of negotiation activity will be slightly lower in 1986-87.

Table 15 Duration and Termination Dates of Settlements Concluded in 1985-86*

Board Classification	Not Settled	1 Year Aug. 31/85	2 Years Aug. 31/86	3 Years Aug. 31/85
Boards of Education				
— Elementary	2	43	14	—
Boards of Education				
— Secondary	—	42	14	—
County and District				
Combined Roman		21	19*	2
Catholic Separate				
School Boards	—	27	—	—
Other School Boards	2	—	6	—
Total	4	133	53	2

* Includes Carleton AEFO, Stormont OECTA, Carleton OECTA.

V STAFF ACTIVITIES

1. Field Services

(a) Monitoring of Negotiations

The Commission maintains its awareness of negotiations between teachers and school boards through its Field Services staff. The two Field Officers under the direction and supervision of the Director of Field Services are responsible for monitoring the negotiations in all jurisdictions in the Province. This regular contact, by both on-site visits and phone enables the individual Field Service Officer to gain an understanding of emerging issues in negotiations and to become thoroughly familiar with the parties and important developments at the local level. In turn, the parties become better acquainted with the Commission's representatives and more knowledgeable about the Act and the Commission's policies, procedures and resources. Through this exchange, progress reports are gathered and procedures and requirements under the Act are clarified.

Maintaining an intimate awareness of negotiations between branch affiliates* and school boards is particularly advantageous when appointments of third party neutrals by the Commission become necessary. In making judgments regarding the appropriateness or timing of an appointment and/or the individual to be named as mediator or fact finder in any given area, the Commission has been able to rely on the first-hand information and advice of its Field Services staff.

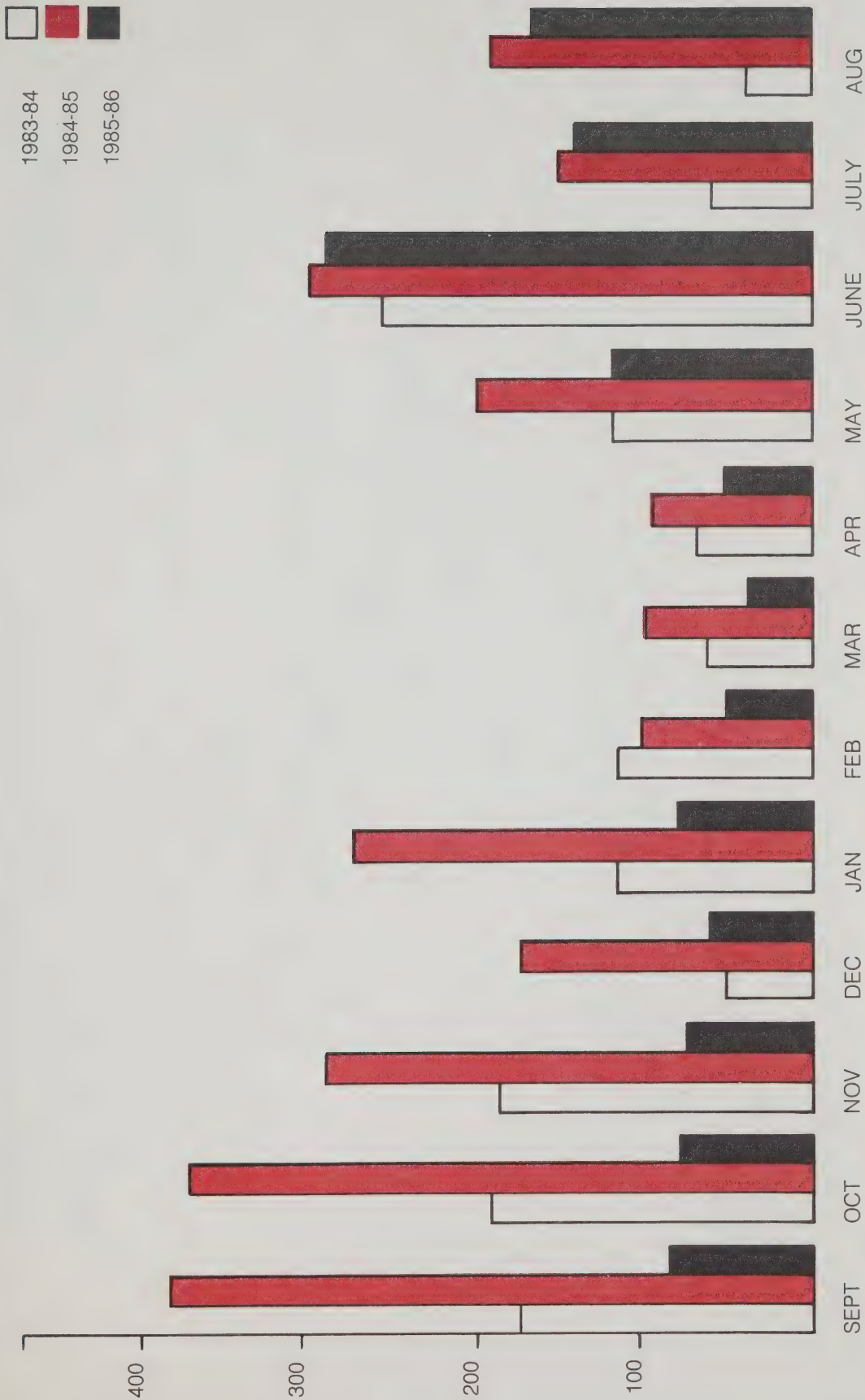
Field Services staff formally analyse all upcoming sets of negotiations early in the negotiation year. The analyses include an assessment of the probable degree of difficulty of each situation and the identification of possible troublesome issues and potential barriers or stumbling blocks to settlement. Their analyses also include recommendations on the style, timing and type of third party assistance appropriate to each situation. This material is summarized and evaluated against past historical developments in the particular teacher/school board relationship. Through this system, more effective and economical appointments are made. Moreover, more informed decisions concerning third party appointments have resulted.

In the monitoring activities, emphasis is placed on the Field Service Officer establishing a high profile with the parties and on strengthening the relations between the field officer and the branch affiliates and school boards in order to enable the Commission to provide the best possible service to the parties in their negotiations and teacher-board relations.

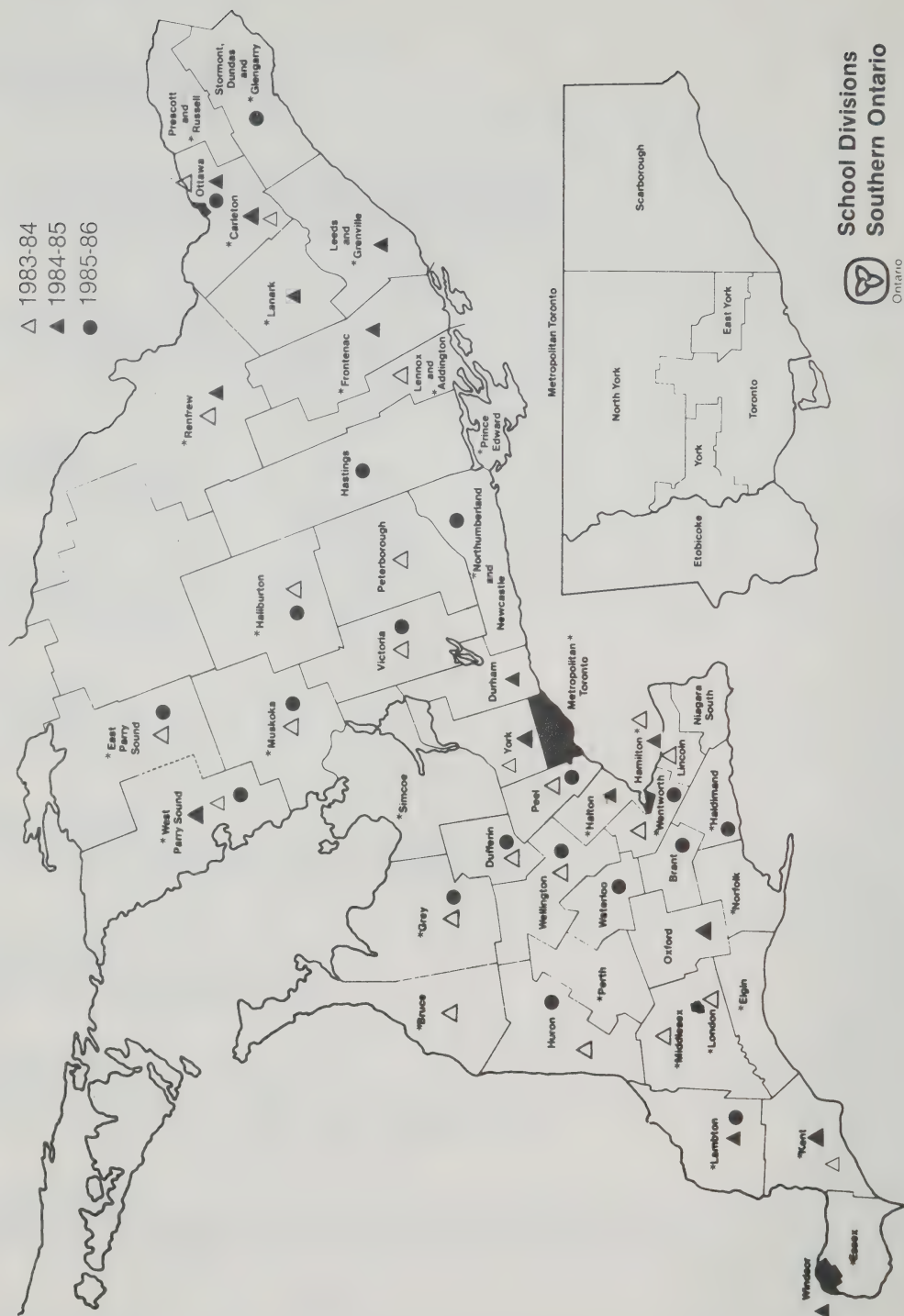
Figure 3 indicates on a monthly basis, the level of telephone monitoring activity on the part of Field Services staff during the 1985-86 year. The staff's visits to various jurisdictions in the province during the past year are illustrated on the following pages.

* A branch affiliate is composed of all the teachers employed by a board who are members of one of the Provincial teachers federations or associations. A branch affiliate is comparable to a local union.

Figure 3 Telephone Calls In-Coming and Out-Going Field Service Monitoring

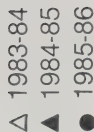


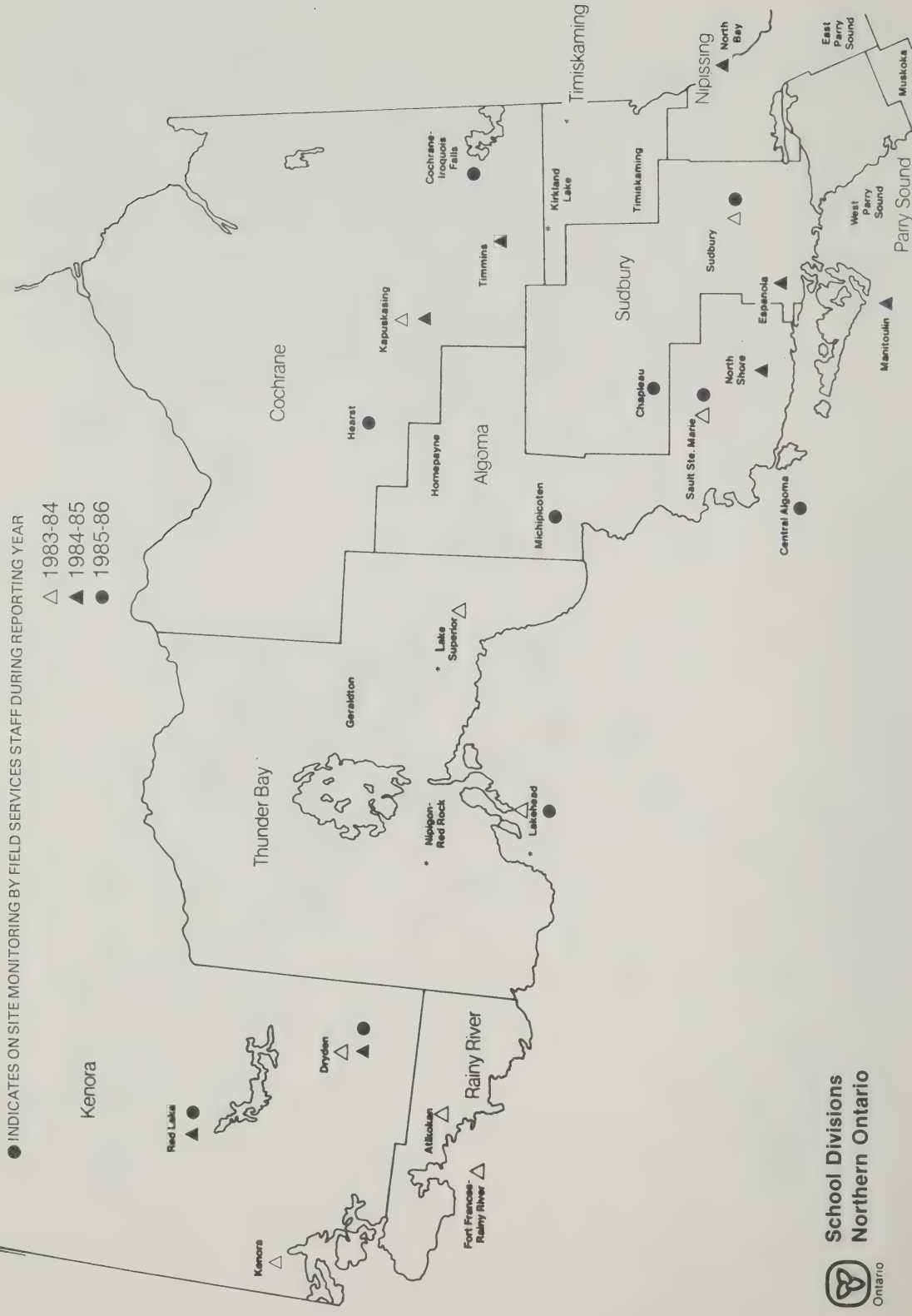
▲ 1983-84
 ▲ 1984-85
 ● 1985-86



School Divisions Southern Ontario





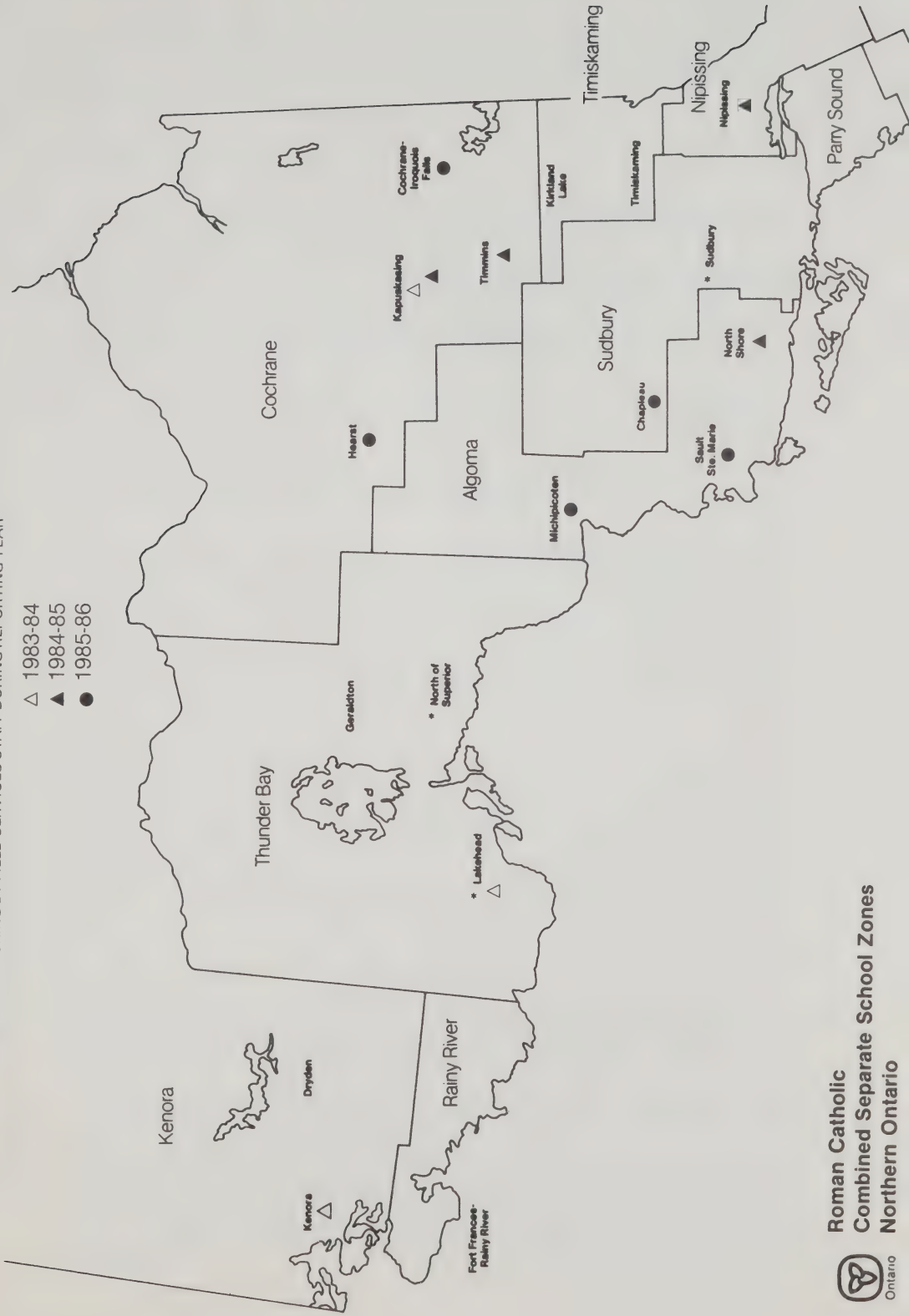


● INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR

△ 1983-84
 ▲ 1984-85
 ● 1985-86

● INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR

- △ 1983-84
- ▲ 1984-85
- 1985-86



In addition to the monitoring and third-party appointment processes, Field Services staff are intensively involved in a number of other Commission endeavours:

1. selection, training and evaluation of third-parties;
2. quasi-judicial matters;
3. preventive mediation programs;
4. other miscellaneous activities.

(b) Selection and Training of Third Parties

Beyond the role which Field Services staff perform in the appointment of third party neutrals, they are also engaged in their selection, training and evaluation.

(i) Selection

Section 60(1)(e) of the Act directs the Commission “to select and where necessary, to train persons who may act as mediators, fact finders, arbitrators, and selectors.”

The Commission selects persons from a list of qualified fact finders and mediators to assist in collective negotiations as required. Its roster includes men and women from a variety of occupations including labour/management arbitrators, labour lawyers, academics and former educational administrators and teachers. The Commission continues to recruit a number of third parties who are bilingual.

Today, individuals who are utilized by the Commission not only must bring strong qualifications to the ERC, but also must participate in the Commission's training programs. As well, the Commission now evaluates its third parties and only those individuals whose performance is superior continue to be appointed. The Commission continues to seek individuals whose background, experience and understanding of collective bargaining in education renders them eligible to provide the kind of third party assistance required by the ERC.

(ii) Training

During the reporting year, one training session, which focused upon mediation, was held for third parties. The workshop consisted of two basic components. The first enabled participants to listen to and explore with experienced mediators various techniques and strategies employed to initiate and guide parties through the process of dispute resolution. The second aspect of the workshop consisted of short lectures and group discussion combined with case exercises. It was led by a mediator who has been involved in numerous disputes; many of which have been outside the field of labour relations. His presentation concentrated upon a number of dimensions (relationships, values, data) of possible conflict and how a mediator might attempt to analyze and assist in their resolution.

(c) Quasi-Judicial Matters

Field Services staff also are involved in the following areas: (1) the appointment of Returning Officers in conjunction with branch affiliate requests to hold Commission-supervised votes, and (2) the investigation of complaints alleging the failure of a party to negotiate in good faith.

(i) Commission-Supervised Votes

Following the public release of a fact finder's report, a branch affiliate is in a position to request that the Commission supervise a vote by its members on the last offer received from the school board and/or whether or not a strike is favoured. Also, if a strike does occur, once a settlement is achieved during the strike, the teachers are required to conduct a Commission-supervised vote concerning the approval of the terms of agreement.

Field Services staff arrange for qualified people throughout the Province to act as Returning Officers for these votes. During the 1985-86 year, 28 votes were conducted in 16 jurisdictions.

(ii) Complaints related to Good Faith Bargaining

The Commission has established a procedure for dealing with complaints of this nature. The procedure provides that prior to a formal hearing an informal effort be undertaken to investigate a complaint with a view to its resolution.

It has become customary for Field Services staff to act as investigators and a total of 7 complaints were dealt with during the 1985-86 year, 2 of which were resolved locally thus avoiding the need to proceed to a hearing.

(d) Preventive Mediation

Preventive mediation programs are administered by the Field Services unit. Their main purpose is to assist the parties in reducing, if not eliminating, the obstacles which prevent the parties from resolving matters of mutual concern. In addition preventive mediation attempts to equip the parties with tools which enable them to conduct their negotiations in a more effective and efficient manner within the existing structure of collective bargaining. It must be stressed that preventive mediation activities are not designed to change the present structure of collective bargaining. However, they are designed to enhance it and to make it work for the benefit of both parties. In contrast to conventional mediation, preventive mediation is normally conducted outside negotiations.

It should be stressed the preventive mediation is offered only after both parties in a jurisdiction request ERC involvement.

Although experimentation with preventive mediation began in 1979-80, an official program was not established until 1980-81. The two dimensions of the preventive mediation program are: Relationships by Objectives and Grievance Mediation.

Prior to the formal establishment of Relationships by Objectives, the Commission provided an activity called “technical assistance”. A chronology of technical service and Relationships by Objectives is contained in Appendix C.

(i) Relationships by Objectives (R.B.O.)

The R.B.O. program involves two numerically equal groups of teachers and trustees/administrators in working through the six steps identified below:

- I Identification of the issues to be resolved as seen by each side.
- II Explanation of issues and rationale by each side to the other.
- III Agreement on a list of objectives based on the issues.
- IV Creation of action steps to meet these objectives by groups composed of an equal number of members from each party.
- V Acceptance and/or tailoring of these action steps by teacher and trustee groups separately.
- VI Acceptance of action steps, assigning responsibility and setting time lines by the whole group.

This program was originally developed to take place over three days in a residential setting. The Commission, in meeting the needs of the parties has altered this design to:

- 1) Accommodate the problems encountered in attempting to free key trustees, teachers and administrators for a three-day period during the school year.
- 2) Shorten the program from three days to two.

To achieve this, the first step in the process is held prior to the residential portion of the workshop. Also, using the information given by the parties in this first session, the Commission staff prepares a list of objectives which the parties accept and/or tailor in Step III.

The design of the program allows the participants to develop a separate statement of the issues in the school system. Then the parties work towards joint objectives followed by joint action steps to meet these objectives.

This structure, in combination with the time away from the pressures of the system, facilitates the opening of new communication links and channels as well as the clearing of inappropriate and inaccurate perceptions which exist in every organization.

The Commission in offering this program to school boards throughout Ontario, insists that two criteria be met:

1. Both parties indicate that they desire to participate in the program.
2. The program will not be offered in any jurisdiction where negotiations are in progress.

Jurisdictions which have utilized this program during the report year are listed below:

Bruce-Grey R.C.S.S. Board and its Teachers
Red Lake Board of Education and its Elementary Teachers
Hamilton Board of Education and its Secondary Teachers
Muskoka Board of Educations and its Secondary Teachers
Grey County Board of Education and its Secondary Teachers
York Region R.C.S.S. Board and its Teachers
Dryden Board of Education and its Elementary and Secondary Teachers

(ii) Grievance Mediation

This program is designed to assist the parties in resolving differences between them which arise from the interpretation, application, administration or alleged contravention of the collective agreement. The use of this procedure does not preclude the parties from proceeding to arbitration if the matter is not resolved through mediation.

One purpose of grievance mediation is to alleviate the build up of negative attitudes which develop within a system because of unresolved grievances. Such grievances often become issues in negotiations. Moreover, grievance mediation is a method of solving disputes as close to the source and as quickly as possible. Lastly, grievance mediation is much less expensive than arbitration.

The Commission introduced grievance mediation in 1979-80. Meetings were held with the provincial teacher federations and trustees' associations to introduce the concept, and explain some of its advantages.

A training session for grievance mediators was held in 1980-81. Eight mediators from across the province attended a two-day workshop which was designed to acquaint them with the arbitral jurisprudence developing in Ontario education and with the unique aspects of the grievance mediation process. The purpose was to develop a group of experts.

In February 1984, the Commission hosted a workshop for the parties on grievance mediation. The aim of the workshop was to explain the techniques and procedures involved in Grievance Mediation and compare this process in terms of cost, philosophy and practical aspect to Grievance Arbitration. Over 200 people attended and these encompassed the full spectrum of the education sector — teachers, trustees, administrators and boards' legal counsel.

The process, while utilized modestly, remains a useful and less costly alternative to rights arbitration. A chronology of Grievance Mediation covering the period 1980-86 is contained in Appendix D.

(e) Other Miscellaneous Activities

A thorough review of the Commission's Policies, Procedures and Forms Manual was undertaken during the year. The result was a revised Manual which was forwarded to all school boards and branch affiliates. A significant change was made in regard to those policies concerned with a vote by a branch affiliate on the offer of the school board last received and the initiation of a lock-out or closing of schools. A suggested format was proposed for the school board or branch affiliate to employ in making an offer to the other party so that the offer would be communicated accurately and completely.

One new brochure and two revised pamphlets were produced and distributed to the parties. The new document entitled "Relationships by Objectives Programme" provided an overview of this workshop activity to improve relationships described in more detail previously in this report. Revisions to the others entitled "A Guide to Teacher/Board Collective Bargaining" and "The Education Relations Commission and Grievance Mediation" incorporated current practices and amended references to the legislation which were required following the removal of several sections designed to assist in transition during 1975-76.

Finally, a summary of the role and activities of Field Services was forwarded to all parties as another reminder of the varied forms of assistance which the Commission, through this aspect of its operation, affords.

Liaison activities continued with ERC Field Services staff and the staffs of the various provincial bodies of teacher and trustee organizations. These sessions enable an on-going dialogue about the collective bargaining process and perceived problems or areas for improvement.

Throughout the year, Field Services staff were asked to act as presentors in a wide variety of workshops and seminars enabling the role and activities of the Commission to be explained on a first hand basis. Among others, staff were involved in the following: Canadian School Trustees' Association Conference for Negotiators, Association of Labour Relations Agencies Annual Meeting and Conference, Ontario School Trustees' Council Salary Conference, Ontario Association of Education Administrative Officials Conference for Chief Executive Officers, Ontario English Catholic Teachers' Association workshop concerning grievance arbitration, regional meeting of the Ontario Secondary School Teachers' Federation, Annual Northern Ontario School Trustees' Association Conference.

2. RESEARCH SERVICES

a) Information

Research Services — which is composed of a Director, two Research Specialists, and a Research Officer — is responsible for developing and maintaining a common collective bargaining data base. Local teachers and school boards rely heavily on this data base to identify emerging settlement trends, and to resolve factual disputes.

The Commission's data base contains salary, benefits and other working conditions information which has been extracted from over 2,000 collective agreements dating back to 1975-76. Also contained in the data bank are staffing, enrolment and school board expenditure information which is collected in cooperation with the Ministry of Education.

Research Services also maintains a reference library which contains a copy of all collective agreements, public fact finding reports, arbitration awards, final offer selection awards, and ERC determinations. The library is open to the public.

Research officers participate actively in the training and evaluation of mediators and fact finders. The unit tries to improve the efficiency and effectiveness of third parties by supplying, on very short notice, complex historical and comparative analyses of salaries and other working conditions. These analyses are used by the third parties to evaluate the relative merits of the two parties' positions, and to develop recommendations which will assist the parties in reaching a rational and amicable settlement of their differences.

An in-house mini-computer was purchased by the E.R.C. in November 1985 to increase the scope and quality of its research services, while controlling the costs of data processing. This new system provides the following:

- **Bulletin Board System:**
an up-to-date summary of key settlement trends, the status of negotiations, mediator and fact finder appointments, vote results, etc.;
- **On-Line Enquiry System for Browsing Data Files:**
a system that allows users to conduct "what if" analyses and other types of enquiries;
- **Production Run System:**
prepackaged analyses and computerized reports on salaries and working conditions updated weekly;
- **Historical Analysis System:**
allows users to design tailor-made historical analyses of salary comparisons and cost comparisons;
- **June and September Board Report System:**
analyses of staffing and total compensation data collected by the Ministry of Education;

- **Clause File System:**
samples of clauses on topics of crucial concern to negotiators; these clause files assist negotiators with writing contract language;
- **Computer Teleconferencing System:**
this system allows users to send and receive mail messages, participate in computer conferences, and conduct polls.

Direct access to the E.R.C.'s computerized system was granted to the provincial teacher and trustee organizations in November, 1985 and to local board and teacher brand affiliates in April, 1986.

The E.R.C. also joined the Ministry of Education's Educational Computing Network of Ontario (ECNO) in 1986. By joining the Network the E.R.C. now has the capability of electronically collecting information from school boards in a more comprehensive, timely and efficient manner. It also allows users of the E.R.C. system to electronically retrieve reports and data from the E.R.C. computer.

In June, 1986 the E.R.C. entered into a joint venture with the Ministry of Education in British Columbia to build a national data base of teacher salaries.

In July, 1986 the E.R.C. contracted with the Ontario Institute for Studies in Education (OISE) to develop screen handling software for the input of data by ECNO school boards. This is part of the E.R.C.'s long range plan to use the Ministry's ECNO data network to automate the collection of information.

b) Research

Research Services completed development of an information system which will allow the Commission's Field Service Officers to monitor the use of the mediation and fact finding processes on an on-going basis. The diagnostic capabilities of the system facilitate the selection and appointment of third parties, and assist the Commission's staff in identifying "problem-prone" jurisdictions".

During the reporting year the Commission published a research study completed by Dr. Jeffrey Gandz of The University of Western Ontario and Dr. Carol Beatty of Queen's University entitled "Changing Relationships in Educational Bargaining".

The research, which was funded by the Education Relations Commission, examined the actual teacher-board relationships of four jurisdictions in Ontario where significant changes had taken place. The study provides valuable insight into the wide spectrum of teacher-board relationships and documents in detail information obtained by personal interviews with key figures in each jurisdiction.

The cases are carefully analysed to highlight significant concepts which can be applied by practitioners to the management of change in the teacher-board relationship.

APPENDIX A BIOGRAPHIES OF THE COMMISSIONERS

Chairman

Bryan M. Downie, B.A. (Concordia, Minnesota), M.B.A. (University of Chicago), Ph.D. (University of Chicago).

Dr. Downie, (Professor, Industrial Relations and Public Policy, Queen's University) has served as a fact finder, mediator, and interest arbitrator. He has published extensively in the area of labour relations and his book, *Collective Bargaining and Conflict Resolution in Education* examines the activities and policies of the Education Relations Commission during its formative years. He is Canadian Director and a Board member of the Society of Professionals in Dispute Resolution, an association of third party neutrals based in Washington, D.C. and is past President of the Canadian Industrial Relations Association.

Vice-Chairman

T. Gary O'Neill, B.A. Sc. (University of Toronto), M. Eng. (Carleton), LL.B. (University of Ottawa).

Mr. O'Neill, is a member of an Ottawa law firm and is knowledgeable in both dispute resolution and the issues in the education sector of Ontario. Since 1977, Mr. O'Neill has served as a third-party on numerous occasions.

Commissioner

John Irwin Zeiler, B.A. (University of Toronto), LL.B. (University of Toronto).

Mr. Zeiler, is a partner in the law firm of Leve and Zeiler whose practice includes real estate, corporate, commercial and estate work. He was the solicitor for the developer who registered the first condominium in Ontario. Mr. Zeiler has taught for the Ontario Real Estate Association, the Appraisal Institute of Canada and more recently in the Department of Administrative Studies at York University where he lectures in Real Property Law.

Commissioner

Jane Scott, B.A. (Queen's University).

Ms. Scott, has served three consecutive terms as chairman of the Lennox and Addington County Board of Education and was elected president of the Ontario Public School Trustees' Association for the year 1985. As a school trustee Ms. Scott had considerable experience in the field of teacher/board collective bargaining and in education finance. Her teaching experience includes business subjects such as Law, Bookkeeping and Office Practice.

Commissioner

Ghislaine Allard Connors, B.A. (Laurentian University).

Ms. Connors, has had 36 year's experience as a teacher and principal in Sturgeon Falls. She has had a variety of experience including 6 years as a member of the Teachers' Negotiation Committee with the Nipissing District Roman Catholic Separate School Board. As a member of the Curriculum Development Committee she has assisted in the preparation of courses of study in English and Mathematics. For 24 years she served as principal of École Notre Dame in Sturgeon Falls.

APPENDIX B SANCTION RECORD

Sanction Record, 1975-76 to 1985-86

Year/ School Board	Total Sanction Days	Total sanction Days Excluding Work-to-Rule
1975-76 <u>Secondary</u> (6): *		
** Central Algoma	35	35
Kent County	66.5	13.5
** Kirkland Lake	44	44
** Metro Toronto	38	38
** Sault Ste. Marie	46	13
** Windsor	27	26
Year Average	42.7	28.2
	(40.6) ***	(32.7) ***
1976-77 <u>Secondary</u> (2):		
Peel	44	0
Stor., Dundas, Glengarry	24	24
Year Average	34.0	12.0
<u>RCSS</u> (1):		
Durham	9	9
Year Average	9.0	9.0
1977-78 <u>Secondary</u> (5):		
Essex	16	16
Huron	31	31
Perth	41	0
** Renfrew	73	44
Wentworth	49	16
Year Average	42.0	21.4
<u>RCSS</u> (1):		
Essex	34	34
Year Average	34.0	34.0
1978-79 <u>Secondary</u> (3):		
Haldimand	36	36
Kirkland Lake	30	26
York County	5	2
Year Average	23.7	21.3
1979-80 <u>Elementary</u> (2):		
Brant	22	22
Peel	14	13
Year Average	18.0	17.5
<u>Secondary</u> (3):		
Lambton	39	39
North York	40	0

**Sudbury	56	56
Year Average	45.0	31.7
<u>RCSS (2):</u>		
Frontenac	14	14
Nipissing	18	18
Year Average	16.0	16.0
1980-81 <u>Secondary (3):</u>		
Bruce	40	38
Leeds and Grenville	30	30
Norfolk	48	47
Year Average	39.3	38.3
<u>RCSS (1):</u>		
Essex	9	9
Year Average	9.0	9.0
1981-82 <u>Secondary (2):</u>		
Leeds and Grenville	0	0
West Parry Sound	51	51
Year Average	25.5	25.5
<u>RCSS (2):</u>		
Carleton (OECTA)	19	19
Carleton (AEFO)	11	11
Year Average	15.0	15.0
1982-83 <u>Secondary (1):</u>		
Oxford County	7	1
Year Average	7.0	1.0
1983-84 (0)	0	0
1984-85 <u>Secondary (2):</u>		
Hamilton (OSSTF)	39	29
Muskoka	30	30
Year Average	34.5	29.5
<u>RCSS (3):</u>		
Stormont, Dundas and		
Glengarry (AEFO)	9	9
Sudbury	21	21
York Region	22	0
Year Average	17.3	15.0
1985-86 <u>Secondary (3):</u>		
**Wellington (OSSTF)	50	50
Grey (OSSTF)	42	42
Lennox & Addington (OSSTF)	11	8
Year Average	34.3	33.3
<u>RCSS (1):</u>		
Metro	5	5
Year Average	5.0	5.0

* 11 Sanctions if Metro = 6

** An advisement was made pursuant to section 60(1)(h).

*** Average if Metro = 6.

APPENDIX C CHRONOLOGY OF PREVENTIVE MEDIATION

Date	Jurisdiction	Parties	Nature of Preventive Mediation
1979	Essex RCSS Bd.	Trustees, Administrators, Teachers	Five meetings to set up ground, rules for negotiations.
1979	Essex RCSS Bd.	Trustees, Administrators Teachers	Assisted in developing a staffing formula for September 1980
1979	Perth County Bd. of Education	Trustees, Administrators	Chaired committee of teachers on staffing and time-tabling in the secondary schools.
1979	Haldimand Bd. of Education	Trustees, Administrators	Weekend workshop of Relationships by Objectives.
Jan-Feb 1980	Wellington County Board of Education	Trustees, Administrators Secondary Teachers	Facilitate cooperative bargaining process — 4 sessions totalling 67 hours.
May 1980	Halton Bd. of Education	Trustees, Administrators	Day and one-half workshop on Relationships by Objectives.
June 1980	East Parry Sound Bd. of Education	Trustees, Administrators Elementary and Secondary Teachers	Three-day workshop on alternative methods of bargaining; representatives from 6 boards were brought together to discuss pros and cons of various methods.
June 1980	Haldimand Bd. of Education	Trustees, Administrators, Teachers	One-day workshop on communications.
Oct 1980	Lennox & Add. County Bd. of Education	Trustees and Administrators	Day and one-half workshop on Relationships by Objectives.
Dec 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers CUPE	Three-day workshop on Communication Skills.

Dec 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers CUPE	Three-day workshop on Problem-Solving Skills.
Dec 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Three-day workshop on Conflict Management.
Mar 1981	Lambton County Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Two-day workshop on Relationships by Objectives.
Apr-May 1981	London Bd. of Education	Administrators	Planning new approaches to administration in the 80's (Two one-day sessions).
June 1981	Haldimand Bd. of Education	Trustees, Administrators, Teachers	One-day workshop on communications.
Oct 1981	East Parry Sound Bd. of Education	Trustees, Administrators Elementary and Secondary Teachers, CUPE	Two-day Evaluation workshop.
Feb 1982	East Parry Sound Bd. of Education	Administrators, Elementary and Secondary Teachers	One-day workshop to review communication, problem-solving and conflict managements skill establish future goals; develop action steps.
Mar 1982	Essex RCCS Bd.	Trustees, Administrators, Teachers (OSSTF FWTAO, AEFO)	Two-day workshop on communications, problem solving and conflict management skills.

Apr 1982	East Parry Sound Bd. of Education	Administrators, Principals of all Elementary and Secondary schools selected department heads from the Secondary school, and consultants who serve the system	Three-day workshop of Leadership, skill development in communications, problem solving, decision-making, and ways to handle conflict.
June 1982	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Evening session to introduce new trustees and teachers to technical assistance programme.
June 1982	Timiskaming Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Day and one-half workshop on Relationship by Objectives.
Nov 1982	Lincoln Bd. of Education	Trustees and Administrators	Two-day workshop on Relationship by Objectives; familiarize new trustees with the school system operation.
Feb 1983	East Parry Sound Bd. of Education	Internal facilitators 1 Trustee 5 Elementary Teachers 1 Secondary Teacher	Three-day workshop to develop Education internal facilitators.
Feb 1983	East Parry Sound Bd. of Education	Trustees, Administrators Elementary and Secondary Teachers	Three-day workshop on communications, problem- solving conflict management, group development, and relationship focusing.

May 1983	East Parry Sound Bd. of Education	Internal facilitators 1 Trustee 5 Elementary Teachers 1 Secondary Teacher 3 ERC Staff	Learning reinforcement for internal facilitators.
Oct 1983	West Parry Sound Bd. of Education	Trustees, Administrators, Elementary Teachers	Two-day workshop on Relationships by Objectives.
Jan 1984	Atikokan Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Two-day workshop on Relationships by Objectives.
Jan 1984	Welland County Roman Catholic Separate School Board	Trustees, Administrators, Teachers	Two-day workshop on Relationships by Objectives.
May 1984	Canadian Forces Base, Petawawa Bd. of Education	Trustees, Administrators, Elementary Teachers	Two-day workshop on Relationships by Objectives.
Jan 1985	Renfrew County Bd. of Education	Trustees, Administrators, Secondary Teachers	Two-day workshop on Relationships by Objectives.
Oct 1985	Red Lake Bd. of Education	Trustees, Administrators, Elementary Teachers	Two-day workshop on Relationships by Objectives.
Nov 1985	York Region Bd. Roman Catholic Separate School Board	Trustees, Administrators, Teachers	Two-day workshop on Relationships by Objectives.
Jan 1986	Muskoka Bd. of Education	Trustees, Administrators, Secondary Teachers	Two-day workshop on Relationships by Objectives.

Feb 1986	Hamilton Bd. of Education	Trustees, Administrators, Secondary Teachers	Two-day workshop on Relationships by Objectives.
Mar 1986	Grey County Bd. of Education	Trustees, Administrators, Secondary Teachers	Two-day workshop on Relationships by Objectives.
Apr 1986	Bruce-Grey RCSSB	Trustees, Administrators, Teachers	Two-day workshop on Relationships by Objectives.
Apr 1986	Dryden Bd. of Education	Trustees, Administrators Secondary and Elementary Teachers	Two-day workshop on Relationships by Objectives.

APPENDIX D CHRONOLOGY OF GRIEVANCE MEDIATION APPOINTMENTS, 1980

Date	Parties	Nature of Assistance
June 1980	Provincial Schools Authority and Federation of Provincial Schools Authority Teachers	Issue Resolved
June 1981	Nipissing Board of Education and the Branch Affiliates of FWTAO and OPSTF	Issue Resolved
March 1982	Central Algoma Board of Education and the Branch Affiliate of OSSTF	Issue Resolved
May 1982	Northumberland and Newcastle Board of Education and the Branch Affiliates of FWTAO and OPSTF	No Resolution; Issue went to Arbitration
May 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of OSSTF	Issue Resolved
Sept. 1983	York Region RCSS Board and the Branch Affiliate of OECTA	No Resolution; Issue went to Arbitration
Sept. 1983	Victoria Board of Education and the Branch Affiliate of OSSTF	Issue Resolved; Rejected Dec. 8; Issue went to Arbitration

Sept. 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of AEFO	Issue Resolved; but Rejected by Board October 3, 1984
Oct. 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of OSSTF	Seven Grievances Issues Resolved
Dec. 1983	Haldimand Board of Education and the Branch Affiliate of OSSTF	Two Grievances, one Resolved, one to Arbitration
Dec. 1983	Essex County RCSS Board and the Branch Affiliate of OECTA	Issue Resolved
Jan. 1984	Halton Board of Education and the Branch Affiliate of OSSTF	No Resolution; Issue went to Arbitration
Jan. 1984	Peel Board of Education and the Branch Affiliate of OSSTF	No Resolution
Jan. 1984	CFB Petawawa Board of Education and the Branch Affiliates of FWTAO and OPSTF	Resolved
April 1984	Sault Ste. Marie Board of Education and the Branch Affiliate of OSSTF	Issue Resolved; Rejected by Board
April 1984	Kapuskasing Board of Education and the Branch Affiliate of AEFO	Issue Resolved
June 1984	North York Board of Education and the Branch Affiliates of FWTAO and OPSTF	Agreement to hold Issue to Abeyance
June 1984	Red Lake Board of Education and the Branch Affiliate of OSSTF	Issue Resolved
June 1984	Northumberland and Newcastle Board of Education and the Branch Affiliate of the OSSTF	No Resolution; Issue went to Arbitration
Oct. 1984	Sudbury Roman Catholic Separate School Board and the Branch Affiliate of AEFO	Resolved
Nov. 1984	Timiskaming Board of Education and the Branch Affiliate of OSSTF	Parties unable to meet; Issued to Arbitration

Dec. 1984	Sudbury District Roman Catholic Separate School Board and the Branch Affiliate of OECTA	Resolved
Dec. 1984	Kapuskasing Board of Education and the Branch Affiliate of FWTAO	Resolved
April 1985	Sault Ste. Marie Board of Education and the Branch Affiliate of OSSTF	Resolved
May 1985	Red Lake Board of Education and the Branch Affiliate of FWTAO	Resolved
May 1985	Board of Education for the City of Windsor and the Branch Affiliate of OSSTF	Issue to Arbitration
Oct. 1985	Kenora Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
Oct. 1985	C.F.B. Kingston Board of Education and Branch Affiliate of F.W.T.A.O. and O.P.S.T.F.	Resolved
Nov. 1985	Halton Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
Dec. 1985	Wentworth County Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
Feb. 1985	Hamilton Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
April 1986	Dufferin County Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
May 1986	Windsor Board of Education and Branch Affiliate of O.S.S.T.F.	Not Resolved
May 1986	Sudbury District R.C.S.S. Board and Branch Affiliate of O.E.C.T.A.	Not Resolved
May 1986	Essex County R.C.S.S. Board and Branch Affiliates of A.E.F.O. and O.E.C.T.A.	Not Resolved
June 1986	Wentworth County Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved

APPENDIX E STATEMENT OF EXPENDITURES
APRIL 1, 1985-MARCH 31, 1986

Categories	Budget Allocation \$	Actual Expenditures \$
Salaries and Wages*	588,900	581,050
Employee Benefits*	78,000	73,586
Transportation and Communications		
Communications	19,000	16,187
Mailing	25,000	12,476
Freight	—	—
Relocation Expenses	—	—
Travel Public Servants	47,000	35,772
Travel — Others	142,400	172,190
	233,400	236,625
Services		
Advertising-Print		
Design	30,000	0
Rental Services	9,500	7,296
Data Processing	25,000	80,226
Housekeeping	1,500	0
Conference Expenses	25,000	29,354
Commissioners	30,000	29,940
Professional Services	467,800	255,698
Purchasing, Repairs	25,000	13,148
Special Services	30,000	55,752
Job Advertising	—	—
	643,800	471,414
Supplies		
Data Processing		
Equip./Supplies	20,000	206,174
Office Furniture	3,000	678
Veh.Components, Hardware	—	321
Office Equipment	3,000	53
Lab.Equip./Drugs	—	—
Utilities, Other Supplies	200	696
Office Supplies	29,000	28,362
Books Publications	34,000	42,204
Cloth,Personnel & Health	—	23
Drafting & Exhibits	—	—
	89,200	278,511
Recoveries (C.R.C.)		— 15,841
TOTAL	1,633,300	1,625,345

* Adjusted per Management Board Order

APPENDIX F SUMMARY OF NEGOTIATIONS 1985-86

Negotiations conducted in accordance with the Act

Total Number of Negotiations Conducted by Boards and Teachers	192
Number of Negotiations Not Required Formal Commission Assistance	47
Number of Fact Finders Assigned	81
Number of Situations where Mediator Assigned	49
Settlements By Voluntary Binding Arbitration	3
Settlements By Voluntary Final Offer Selection	1

NOTE:

In some sets of negotiations both a fact finder and a mediator were assigned.



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Education Relations Commission



**Annual Report
1986-1987**



Ontario

**Education
Relations
Commission**

Telephone (416) 922-7679

**111 Avenue Road
Suite 400
Toronto, Ontario
M5R 3J8**

To: The Members of the Legislative Assembly
Province of Ontario

**ANNUAL REPORT
1986-87**

Dear Members:

I have the honour to present the Twelfth Annual Report of the Education Relations Commission, which covers the period from September 1, 1986 to August 31, 1987.

Bryan M. Downie
Chairman
Education Relations Commission

August 31, 1987

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OVERVIEW

STATUS OF THE NEGOTIATION PROCESS

Negotiations under the jurisdiction of the E.R.C. have been, and continue to be, in a very healthy state. Over time, in the majority of situations, the parties have been able to reach agreement without any third party intervention. Also, there is no evidence to suggest that the parties are finding it more difficult to reach agreement and the parties are not utilizing third party intervention to an increasing degree.

Negotiations in 1986-87 required extensive, though not unusually high, E.R.C. assistance. Fact finders were appointed in 42.1 percent of the negotiation situations — up slightly from the previous reporting year. In only 35.3 percent of the cases, however, was it necessary to actually release the fact finder's report to the parties.

In examining the figures of E.R.C. assistance, it is important to note that, while Bill 100 was enacted in 1975, collective bargaining in the first three years was under the control of the Federal Government's Anti-Inflation Program. During those years salary increases were directly determined by Anti-Inflation Board formula. Therefore, fact finding was of reduced value to the parties in 1976-77 and 1977-1978 and, not surprisingly, in those years there were fewer fact finders' reports released to the parties (see Table 4, page 12). In other words, the figures on the number of fact finders actually utilized up to the 1978-79 negotiation round probably are not representative.

Since 1978, the number of fact finders appointed relative to the total number of negotiations taking place has ranged from 30 per cent to 60 per cent. The average over the period, excluding 1983-84 when there were no negotiations, is 45 per cent. Therefore, the 1986-87 experience when fact finders were appointed in 42 per cent of the cases does not represent an upward shift from past experience.

In the reporting year, mediators were appointed in 34 percent of the cases. This represents an increase over the previous reporting period but this, too, is in line with the general experience since the enactment of Bill 100. Also of significance is the fact that, as revealed in Table 8 (page 15), the parties reached agreement on their own, i.e. without a fact finder or mediator, in the majority of cases.

It is also worth noting that the number of two-year and three-year agreements reached during the reporting year was extremely high (see Table 15; page 26). This, coupled with the high settlement rate to-date in 1987, augurs well for the 1987-88 round. That is, there clearly has been a lower rate of third party intervention thus far in 1987 and this is likely to continue for the remainder of the next reporting year.

Overall it is fair to conclude that the negotiation process in this sector closely parallels the process in the private sector in that there is a high degree of voluntary dispute resolution and genuine give-and-take negotiations. Labour relations experts have often testified to the desirability of this type of outcome — an outcome often not achieved in public sector bargaining.

Despite the above, reports from the field indicate the fact finding process needs to be improved and fact finder appointments, at least to some extent, need to be reduced. Also, a recurring problem is the lengthy nature of the negotiation process in many cases. Commission staff continue to wrestle with these problems.

TEACHER STRIKES

There were six strikes during the reporting year. This statistic, too, is in line with past experience. Moreover, it should be weighed against the fact that there were close to 200 sets of negotiations during the period. The number of negotiations which were settled **without** sanctions compares very favourably with other Canadian sectors. With the exception of the strike by secondary school teachers at the Dryden Board of Education, all of the strikes were of relatively short duration. The strike at the Dryden Board lasted 33 school days and was resolved with intensive E.R.C. assistance.

The Commission has a duty under Section 60(1)(h) of Bill 100 to advise the Lieutenant Governor-in-Council when, in the opinion of the Commission, the continuance of a sanction will place in **jeopardy** the successful completion of the students' courses of study. None of the strikes in the reporting year resulted in a jeopardy determination being sent by the Commission to the Lieutenant Governor-in-Council.

While strikes are an unhappy experience for all concerned, labour relations experts have noted many times over that, in order to have effective negotiations and a harmonious labour relations system, the parties should have the option of exercising a strike or lockout to break negotiation impasses. To serve this role the sanction option must be a meaningful one, i.e., not subject to **premature** government intervention.

Moreover, one of the purposes of the **School Boards and Teachers Collective Negotiations Act** is the furthering of harmonious relations between boards and teachers. Therefore, in order to ensure that this statutory purpose is met, a Commission policy has been to impress that, when there is a strike, the responsibility for reaching resolution rests with the local parties. The E.R.C. supplies its best mediators to such situations and at the same time the Commission carefully considers the impact of the strike on the students' courses of study. For the above reasons, however, the Commission has resisted premature intervention under section 60(1)(h). **During the past ten years, we have advised on jeopardy in just three cases.**

The above policy has resulted in some difficult situations. The longest total withdrawal of services by teachers occurred in Sudbury in 1979. The strike by secondary school teachers lasted almost three months. While this was most unfortunate and is often pointed to when arguing against lengthy sanctions, it should be stressed that a strike of the above duration has been extremely rare. Since the **School Boards and Teachers Collective Negotiations Act** was enacted there have been 2,251 sets of negotiations. Sanctions have been exercised in only 2 percent of the cases. In only 1 percent of the cases have teacher strikes (i.e., a total withdrawal of services) exceeded one month. **In short, lengthy teacher strikes have been rare.**

Also, it is worth noting that after the parties go through a long sanction they do not repeat this experience. On the contrary, the teacher/school board relationship generally improves because they have jointly worked out the terms of **their** agreement and have learned important lessons from the situation.

Most importantly, these types of events, though rare, have made it clear to all the parties under Bill 100 that, if they mismanage their negotiations and relationships, they will face the consequences of a breakdown and that these consequences cannot be shifted to other institutions. As noted, the E.R.C. has tried to make it clear to the local parties that **they** have the responsibility to resolve their own disputes. It is sometimes overlooked that the parties in Sudbury reached their own agreement with the assistance of the E.R.C. and the Minister of Education. The strike was not ended through legislation. That fact has not been lost on other parties in Ontario education.

The healthy state of negotiations reported above is due, at least in part, to the fact that the Commission has allowed lengthy sanctions to occur. The Commission has followed this policy, not in the expectation or hope that such sanctions will be exercised but, on the contrary, because their possibility reduces the **total** number of sanctions which occur and ensures that bona fide negotiations take place. Also, to ensure that sanctions are rarely exercised, the Commission continues to promote its services with the parties and continues to recruit and appoint competent third parties. For example, during the reporting year the Commission continued to offer, and make improvements in, a preventive mediation program in order to induce more positive attitudes between the parties and improve teacher/school board relationships (see pages 35-37). **The Commission's policy, then, emphasizes local responsibility in dispute resolution but with an emphasis, too, on the extensive provision of third party services.**

OMBUDSMAN'S REPORT

During the reporting year the Legislature's Standing Committee on General Government conducted hearings into the operation of the **School Boards and Teachers Collective Negotiations Act**. In the hearings the Commission's actions with respect to jeopardy were scrutinized and in some cases criticized. Obviously, the issue of jeopardy, and

specifically when and how the Commission makes a jeopardy determination, is critically important to the operation of Bill 100 and is often misunderstood. In this regard, the Ombudsman's Report, which was released during the reporting year, is of relevance because the subject of that investigation was the E.R.C.'s actions during a lengthy teachers' strike.

The Ombudsman's report was concerned with a strike by secondary school teachers which had lasted over **two months** at the Grey County Board of Education. During the strike an organization of parents was formed under the title of Grey County Parents for Education. The Chairman of the group filed a complaint against the Education Relations Commission with the Ontario Ombudsman— Mr. Daniel Hill. In his report dated October 30, 1986 the Ombudsman set forth the basis of the complaint:

...[T]he Grey County Parents for Education, contacted this office in November of 1985 to bring to my attention the parents' dissatisfaction with the continuation of the Grey County teachers' strike. Notwithstanding the efforts of the parents, the strike was then in its eighth week and it was the contention of the parents group that the Education Relations Commission had failed to do its job in advising the Minister of Education that the students were in jeopardy of not successfully completing their courses of study for the school year. The parents therefore requested that this office investigate the actions of the Education Relations Commission in this matter.

....Briefly, the contentions expressed were that the Education Relations Commission had acted unreasonably in its failure to recognize that the students' successful completion of their courses of study was in jeopardy and had therefore failed to perform its duty of so advising the Lieutenant Governor-in-Council. In addition, the parents contended the Education Relations Commission had unreasonably failed to maintain a constant awareness of the status of negotiations between the teachers and the school board.

The Commission cooperated fully with the Ombudsman and opened all of its files to the investigator assigned by the Ombudsman's office. After an extremely detailed investigation and a thorough examination of the facts, **the Ombudsman in his final report found no support for the contentions against the Commission.** He concluded:

While I completely understand and appreciate the concerns demonstrated by the parents in this case, the available information demonstrates, in my opinion, that the Education Relations Commission exercised its duties in a most responsible manner and were constantly aware of the negotiations in order to make an informed decision respecting the aspects of jeopardy.

The Commission has followed the same procedures and exercised its duties in a similar manner in all other strike situations.

BARGAINING STRUCTURE - ROMAN CATHOLIC SCHOOL BOARDS

The most significant development during the **previous** reporting year was the passage of the **Education Amendment Act, 1986** (Bill 30). The provisions of Bill 30 extend full funding to Roman Catholic Separate School Boards who elect to perform the duties of a secondary school board by passing a by-law which is subject to the approval of the Minister of Education. As reported last year, Bill 30 is likely to have a notable impact on collective negotiations in both Roman Catholic school boards and boards of education. For example, Bill 30 has both financial and job security implications for both sectors and, as a consequence, it has collective bargaining ramifications across the province.

Bill 30 also has raised issues concerning bargaining structure in Roman Catholic school boards. In May of 1986 a complaint of failure to bargain in good faith was filed with the Education Relations Commission by the Cochrane-Iroquois Falls District Roman Catholic Separate School Board against L'Association des Enseignants Franco-Ontariens (AEFO). The Branch Affiliate of AEFO had sent to the School Board a notice of its intent to negotiate separately for elementary and secondary school teachers. It was the Branch Affiliate's desire to conclude separate collective agreements at each level as is the practice at boards of education. The School Board refused to negotiate on this basis and insisted on one set of negotiations to cover both elementary and secondary school teachers. The Commission's determination upheld the position of AEFO.

On February 6, 1987 the Hamilton-Wentworth Unit of the Ontario English Catholic Teachers' Association (OECTA) and the Hamilton-Wentworth Unit of L'Association des Enseignants Franco-Ontariens (AEFO) filed a complaint of failure to bargain in good faith against the Hamilton-Wentworth Roman Catholic School Board. On February 9, 1987 the Ontario English Catholic Teachers' Association Hamilton High Unit filed a similar complaint against the Hamilton-Wentworth Roman Catholic School Board. The complaints were based on the allegation that the Board had refused to negotiate separately with secondary school teachers and with elementary school teachers but insisted on joint negotiations covering both groups based on a two-tier proposal which was rejected by both the secondary and elementary school teachers. The complaints were in response to the position taken by the Hamilton-Wentworth Roman Catholic School Board as to the effect of Bill 30.

The requests with respect to the Hamilton-Wentworth Roman Catholic School Board for determinations under section 60(1)(f) of the **School Boards and Teachers Collective Negotiations Act** raised the identical question of statutory interpretation which was decided by the Commission in the Cochrane-Iroquois Falls case. The request did not indicate that any facts were in dispute.

Given the nature of the requests, and in accordance with its rules of procedure, the Commission decided to make its determination solely on the basis of written submissions and not to convene an oral hearing. Because the disposition of the requests was of significance to other groups, the Commission also decided to afford the opportunity to interveners to make written representations as to the effect of the provisions of Bill 30 on collective bargaining structure.

The Commission made its determination on May 21, 1987. The determination included the following:

As we found in Cochrane-Iroquois Falls, Bill 30 does create a new entity, viz., a **Roman Catholic School Board**. Such an entity clearly has been created. It is specifically provided for in the **Education Act**. It also is clear that **only** a Roman Catholic School Board can provide secondary school education under the provisions of Bill 30. Section 136(c) is specific and unambiguous on this point....

This brings us to the **Negotiations Act** and the definition of a "board" under our home statute. The **Negotiations Act** is a labour relations statute and it has a decidedly different purpose than the **Education Act**, and is to be interpreted with a view to furthering harmonious relations between boards and teachers. In this regard we are of the view that a Roman Catholic School Board is a secondary school board and thus a "board" within the meaning of our statute. We note that a Roman Catholic school board was created **specifically** to perform the duties of a secondary school board. In this light, and to the same effect as Cochrane-Iroquois Falls, we find that for the **Negotiations Act** a Roman Catholic School Board is a secondary school board for secondary school purposes within the meaning of s.l(c). For the **Negotiations Act**, we find there is also a Roman Catholic Separate School Board for elementary school purposes. Or, alternatively, and to the same effect, for the **Negotiations Act** a Roman Catholic School Board acts in the capacity of a secondary school board for secondary school purposes and in the capacity of a Roman Catholic separate school board for elementary school purposes. In either case, O.E.C.T.A. may undertake separate elementary-secondary negotiations at the respondent board.

On June 10, 1987 the Commission was advised that the Hamilton-Wentworth Roman Catholic School Board was commencing an Application for Judicial Review of the determination.

RESEARCH SERVICES

During the reporting year, the Commission made further improvements to its data and information services. Staff in Research Services began rebuilding the computerized data system to incorporate new advances in artificial intelligence and expert advisory systems. This work has been completed and users now have direct access to E.R.C. data and no longer are dependent on the E.R.C. for basic computer programming support. This allows all users, even those without computer skills, equal access to E.R.C. data.

Those who wish to explore trends and relationships in the data can rely on a unique menu driven and interactive "data analysis advisor". This leads users through the analytic process and provides extensive support and guidance on appropriate statistical techniques and methodologies. The system automatically generates a variety of graphical and tabular displays to assist the user in visualizing relationships.

We believe it is the most thorough, useful and timely information system for collective bargaining in North America. A very important side benefit has been that the new system has generated cooperative ventures and joint projects between the E.R.C. and other organizations falling under the jurisdiction of the **School Boards and Teachers Collective Negotiations Act.**

FIELD SERVICES

The Commission continues to attempt to recruit the most able third parties in the Province. During the reporting year, the Commission funded a mediation workshop for women. The purpose of the workshop was threefold:

- (1) to expand the E.R.C.'s roster with capable female third parties to undertake future mediation assignments;
- (2) to provide a unique opportunity for women to be trained in the field of mediation; and
- (3) to discuss possible and/or potential areas of difficulty peculiar to women in a still predominantly male field.

The twenty-three women who were in attendance as participants rated the workshop as highly successful and helpful. A follow-up seminar is planned for 1987-88.

PERSONNEL CHANGES

The Commission will be expanding its information services. To this end, in August 1987, the Commission hired Ms. Tracy Patterson as Research Assistant. Ms. Patterson holds a Bachelor of Arts in Political Science and has worked with the Ontario Public School Teachers' Federation in the capacity of Executive Assistant, Research.

I THE COMMISSION - MEMBERS AND ORGANIZATIONAL STRUCTURE

The Education Relations Commission is composed of five members appointed by the Lieutenant Governor-in-Council. The term of appointment may range from one to three years and each member of the Commission is eligible for reappointment upon the expiration of the term. Dr. Bryan Downie, first appointed Chairman of the Commission on November 1, 1979, was reappointed for a second term on October 31, 1981, and to third and fourth terms on October 31, 1985 and October 31, 1986 respectively. T. Gary O'Neill was appointed Vice-Chairman on December 22, 1982 and was reappointed for a second term on December 22, 1985 and to a third term on December 22, 1986. Ghislaine A. Connors was appointed a Commissioner in March of 1986, John I. Zeiler in March of 1986 and Jane E. Scott in December of 1986. Ghislaine Connors resigned from the above position in November 1986 because of her election to the French Language Education Council. To replace her, William John McNeil was appointed Commissioner in April of 1987. A biographical sketch of each of the Commissioners is contained in Appendix A.

The Commission has a permanent staff of 17 individuals. In order to oversee bargaining in the more than 230 sets of negotiations which fall under its jurisdiction, the Commission must rely on external human resources. Therefore, in addition to its permanent staff, the Commission utilizes a cadre or more than seventy individuals who are appointed on a contractual basis as third-party neutrals. This arrangement has allowed the Commission to attract and utilize some of the most able third parties in the province.

All appointments and all major decisions and determinations are made by the Commission per se. The day-to-day operations of the Commission, however, are managed by a Chief Executive Officer. The operations of the ERC are divided into two major functions — Field Services and Research Services. (An organizational chart is provided in Figure 1.) Briefly, Field Services monitors negotiation activity at the local level, while Research Services provides data to all parties in negotiations.

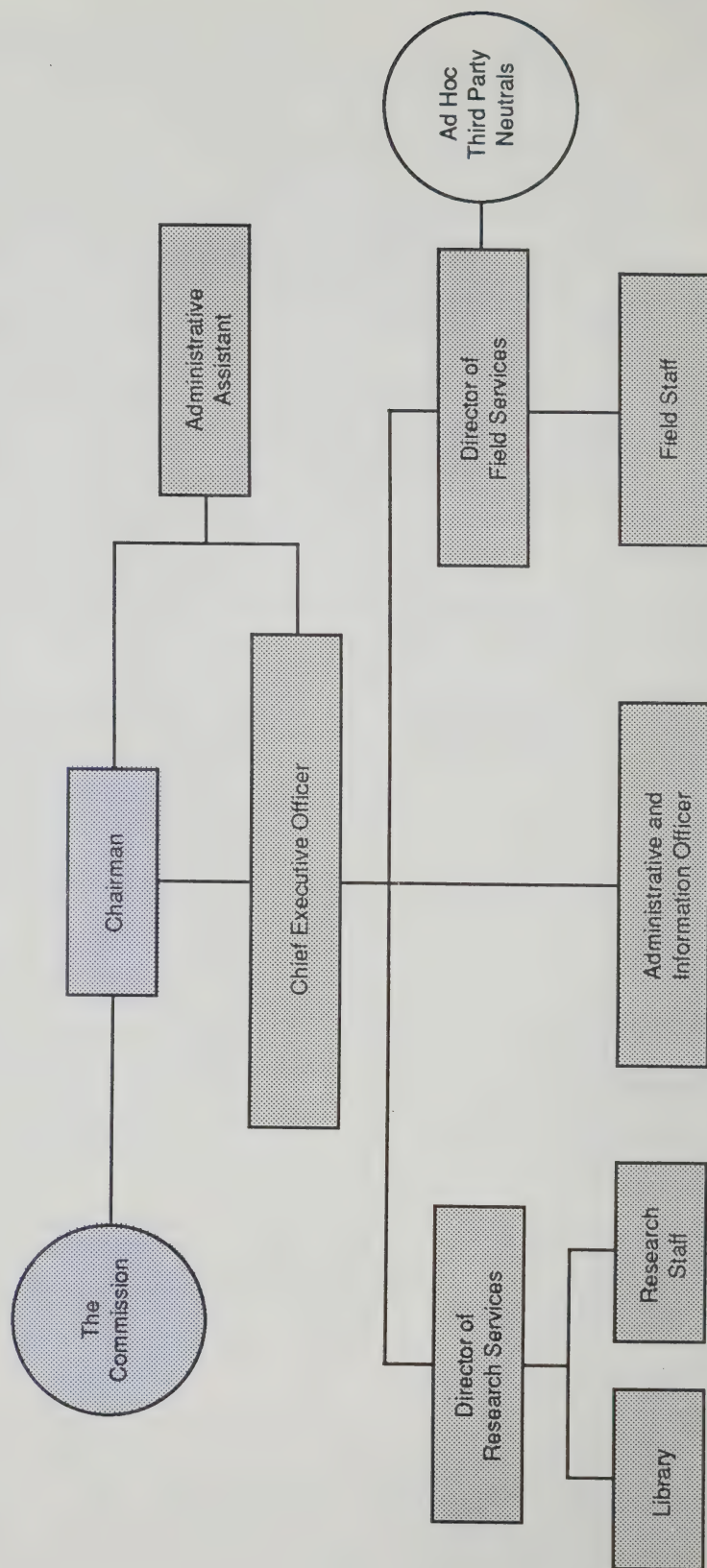
The small size and the extensive experience of its permanent staff, combined with the high calibre of its part-time people, has allowed the Commission to quickly and effectively respond to the needs of the parties and the public.

II THE PARTIES

The parties to negotiations are the 2,000 trustees and the 108,000 teachers who represent and work in the approximately 170 school boards in the province. In general terms, there are two kinds of school boards. The Boards of Education (76) are divided into elementary and secondary panels. The Roman Catholic Separate School Boards (49) provide Catholic education in the province. Until Bill 30 was passed the

Figure 1

ORGANIZATION CHART: THE EDUCATION RELATIONS COMMISSION



R.C.S.S. Boards did not have a secondary panel. Provincial funding for the R.C.S.S. Boards was provided to grade 10 only. Such Boards offering grades 11, 12 and 13 were actually operating private schools. This, however, will no longer be the case. In June 1984 the Premier announced the extension of funding to secondary schools in RCSS Boards and for this purpose Bill 30 was proclaimed in June of 1986 (see Section III).

Both the trustees and the teachers are organized in a group of organizations under a parent body. For the teachers, the parent body is the Ontario Teachers' Federation (OTF). This organization is made up of representatives of:

1. The Federation of Women Teachers' Associations of Ontario (FWTAO);
2. The Ontario Public School Teachers' Federation (OPSTF);*
3. The Ontario Secondary School Teachers' Federation (OSSTF);
4. The Ontario English Catholic Teachers' Association (OECTA);
5. L'Association des enseignants franco-ontariens (AEFO)

Bargaining rights reside with the branch affiliates of the above bodies.

The trustee parent organization is the Ontario School Trustees' Council (OSTC) which is composed of representatives from:

1. The Association of Large School Boards of Ontario (ALSBO);
2. The Ontario Public School Trustees' Association (OPSTA);
3. The Ontario Separate School Trustees' Association (OSSTA);
4. L'Association française des conseils scolaires de l'Ontario (AFCSO);
5. The Northern Ontario Public and Secondary School Trustees' Association (NOPSSTA).

* Changed from Ontario Public School Men Teachers' Federation at annual conference in August, 1982. (OPSMTF)

III TEACHER/SCHOOL BOARD BARGAINING IN ONTARIO — A BRIEF HISTORY

On July 18, 1975, legislation granting Ontario teachers the right to bargain collectively and the right-to-strike was enacted in Ontario. Prior to the passage of legislation, which would become known as Bill 100, the Ontario government had proposed legislation which included compul-

sory arbitration rather than the right-to-strike. In response to the proposed statute (Bill 275), both teacher and trustee organizations, albeit for different reasons, lobbied the Government to include the right-to-strike in the legislation. The right-to-strike became a priority for the teachers because they viewed compulsory arbitration as an ineffective form of dispute resolution. The trustees viewed compulsory arbitration as both an imposition on, and an erosion of, local board autonomy.

Moreover, those who drafted Bill 100 were convinced by events in the education sector and in other jurisdictions that strike-prohibiting legislation is not generally effective. In fact, it was felt that it could have the opposite effect. There was - and is - a feeling by many labour relations experts that legislation prohibiting strikes may expand employer-employee confrontation and magnify their adversarial feelings. The primary reason for proposing Bill 100 was to introduce to the province some stability and order in teacher/board bargaining, and against this background the right-to-strike was included in the legislation.

The need for legislation regarding teacher-board negotiations was obvious in the early 70's. Teachers were demanding the right to collectively bargain such issues as working conditions, grievance procedures and financial matters. Some trustees viewed the collective bargaining process as an infringement on management rights. The net result, in the absence of legislation, was that bargaining took place in a vacuum and that relationships between trustees and teachers were deteriorating both on an individual and organizational basis.

The School Boards and Teachers Collective Negotiations Act, 1975, brought order to this confusion by providing ground rules for collective bargaining. Although the most publicized feature of the Act was the right-to-strike, realistic alternatives such as **voluntary** arbitration or final-offer-selection were provided at each step in the bargaining process. Moreover, events leading to a legal strike or lock-out under the Act were regulated. For example, a strike or lock-out under the Act is not legal until:

- (a) a fact finder has met with the parties and his/her report has been made public; and
- (b) a 15-day cooling-off period takes place after the fact finder's report is submitted to the parties; and
- (c) the teachers have voted (by secret ballot in a supervised vote) on the last offer of the school board; and
- (d) the teachers have voted (by secret ballot in a supervised vote) to take strike action.

Other features of the Act were also significant. Negotiations take place at the school board level between the local teachers' federation(s) and the school board. There are separate negotiations in the elementary

and secondary panels of each board. The scope of negotiations is open, i.e., all matters are negotiable. Each collective agreement is deemed to contain a procedure for the binding settlement of disputes arising out of the administration of the agreement if such a procedure has not been negotiated locally, and a strike or a lock-out is illegal during the term of the collective agreement.

Finally, the Act provided for a five-person commission — the Education Relations Commission — to monitor and assist all local negotiations between teachers and school boards and to administer the Act. The Commission was given seven specific functions under Section 60 of the Act which are outlined below:

1. monitoring all negotiations;
2. collecting and providing data to all parties in collective negotiations;
3. assisting the parties in their collective negotiations;
4. training third party neutrals;
5. adjudicating good faith bargaining charges;
6. supervising last-offer, strike and ratification votes;
7. advising the Lieutenant Governor-in-Council concerning jeopardy to students' courses of study in the event of a strike and/or lock-out.

Four years after the passage of Bill 100, the Minister of Education announced in the Legislature the establishment of a Commission to review the collective negotiations process between teachers and school boards. This Commission — referred to as the Matthews Commission — chaired by Dr. B.C. Matthews, then President of the University of Waterloo, submitted its report to the Minister of Education, in June of 1980. Based on the experience during the first four years of Bill 100, the Matthews Commission proposed a small but nevertheless significant set of recommendations to change the Act.

Redundant sections of the Act were removed in 1981 during a review of legislation by the Provincial Government. As well, the name of the Act was changed to the **School Boards and Teachers Collective Negotiations Act, Revised Statutes of Ontario, 1980, Chapter 464.**

Teacher-board negotiations were significantly altered when **An Act Respecting the Restraint of Compensation in the Public Sector of Ontario and Monitoring of Inflationary Conditions in the Economy of the Province** (Bill 179) was enacted. Briefly, Bill 179, introduced in the Legislature on September 21, 1982, limited compensa-

tion increases in the public sector to up to 9 per cent in the first year of the program (the "transitional" year) and 5 per cent in the second year (the "control" year). The legislation removed the right-to-strike or lock-out and also provided for the formation of the Inflation Restraint Board (IRB) to administer the Act, and to monitor wage and price increases in the public and private sectors.

During 1984-85, the dynamics of teacher-board bargaining were further changed with the introduction of An Act to Provide for the Review of Prices and Compensation in the Public Sector and for an Orderly Transition of the Resumption of Full Collective Bargaining (Bill 111). The Act provided for the return to normal forms of dispute resolution.

The **Education Amendment Act** (Bill 30) was introduced by the Minister of Education on July 4, 1985 and received Royal Assent on June 24, 1986. The provisions of Bill 30 extend full funding to Roman Catholic Separate School Boards which elect to perform the duties of a secondary school board for the area of jurisdiction of the board. For this purpose the board must pass a by-law which is subject to the approval of the Minister.

The legislation established the Planning and Implementation Commission whose responsibilities include advising the Minister in respect of specific means by which the extension of the Roman Catholic school system to include secondary school education may best be carried out.

The provisions of the legislation are likely to have a significant effect on the bargaining structures and relationships between teachers and boards. Comments in this regard are contained elsewhere in this report (see Section IV(7)).

Since the legislation contemplates the transfer of a large number of secondary school students from schools operated by Boards of Education (public boards) to schools operated by a Roman Catholic School Board, it was necessary to build into the legislation certain safeguards for those teachers and other employees of Boards of Education whose positions disappear as a direct result of the transfer of students.

A public board is required in each of the first ten years to designate the persons on its staff whose services will not be required by the public board because of the election by the Roman Catholic School Board to perform the duties of a secondary school board. Designation is on the basis of seniority. Designated persons have certain guaranteed rights. These are as follows:

- the individual teaching contract or employment contract or employment relationship must be assumed by the Roman Catholic School Board;
- the person, whose employment contract is assumed by the Roman Catholic School Board must be employed in a position sub-

stantially similar to the position in which the person was previously employed;

- if there is no similar position available, the person is entitled to training for an alternate position and is to be retained on staff;
- if a designated person objects for reasons of conscience, the public board is required to designate another person unless it is of the opinion that the objection is not made in good faith;
- a designated person is entitled in the first year to an annual salary of not less than the salary which would have applied had he/she not transferred;
- a designated person maintains seniority and probationary or permanent status whichever applies;
- sick leave credits are transferred;
- upon termination of employment a gratuity is payable shared by both boards in the ratio that the number of years with each board bears to the total years of service;
- the Human Rights Code applies to the designated person with respect to advancement or promotion notwithstanding Section 23 of the Code.

Designated persons must agree to respect the philosophy and traditions of Roman Catholic Separate School Boards in the performance of their duties.

Disputes in respect of designation or of failure to designate may be resolved by the grievance arbitration procedure outlined in Section 136 m of the legislation. Parties to a grievance are the public board or the Roman Catholic school board and the organization that represents the person where the person is employed in accordance with the terms of a collective agreement.

The Education Relations Commission has a role to play in this procedure. If one of the parties fails to give notice accepting a single arbitrator or appointing a second arbitrator the Education Relations Commission appoints at the request of either party.

Consent of the Education Relations Commission is required for an arbitration board to extend the time for a decision beyond the statutory sixty (60) days.

IV NEGOTIATIONS

During 1986-87, there were collective agreements covering the terms and conditions of employment of approximately 100,000 teachers in Ontario. The number of school boards and the branch affiliates by type, and the number of teachers employed by those boards, are summarized in Table 1.

Table 1 School Boards, Branch Affiliates, and Teachers in Ontario, 1986-87

Board Classification	Number of Boards	Number of Branch Affiliates							
		FWTAO	OPSTF	OEFTA ELEM	OEFTA SEC	AEFO ELEM	AEFO SEC	OSSTF	FOPSAT ***
Boards of Education	76*	76	76	-	-	10	-	-	-
Metro; Toronto School Board*	1	1	1	-	-	-	-	-	-
Roman Catholic School Boards	37	-	-	37	35	30	13	1	-
Roman Catholic Separate School Boards	12	-	-	11	-	10	-	-	-
Other Separate School Boards**	9	1	1	5	-	4	-	-	-
Other Public School Boards	22	22	22	-	-	-	-	-	-
Secondary School Boards	1	-	-	-	-	-	-	1	-
Boards on Crown Lands, Hospital and Hydro Centres and the Provincial Schools Authority	9	8	8	-	-	4	1	3	1
Total	167	108	108	53	35	58	14	5	1
Number of Teachers	110,429	31,633	14,161	24,011	3,860	1,695	35,069	365	

* The Metropolitan Toronto School Board, which operates schools for the trainable retarded, does not operate elementary and secondary schools as such; however, its teachers are members of the elementary school branch affiliates, FWTAO and OPSTF.

** Includes one Protestant Separate School Board.

*** Federation of Provincial Schools Authority Teachers.

NOTE: TABLE 1 ONLY REPORTS BOARDS WHICH OPERATE SCHOOLS.

1. Renewals under the Act

It should be noted that the number of negotiations during any given year will vary because of the existence of multi-year agreements. That is, under ordinary circumstances not every collective agreement comes up for renewal in each year. As noted in Table 2, 190 of 249 jurisdictions were subject to negotiations in 1986-87.

Table 2 Status of Negotiations, 1986-87

Board Classification	Not Subject to Negotiation*	Subject to Negotiation
Boards of Education — Elementary	17	60 ¹
Boards of Education — Secondary	15	62 ^{1,2}
County and District Combined Roman Catholic Separate School Boards	21 ³	32 ⁴
Other School Boards	6	35
Total	59	190

* Concluded a multi-year settlement during a previous year.

¹ Includes central agreement covering Boards of Education within Metropolitan Toronto.

² Includes Geraldton (O.S.S.T.F.) and Geraldton (A.E.F.O.).

³ Includes Carleton (A.E.F.O.), Carleton (O.E.C.T.A.), Ottawa (O.E.C.T.A.), Stormont, Dundas and Glengarry (O.E.C.T.A.), Sudbury (O.E.C.T.A.) and Sudbury (A.E.F.O.).

⁴ Includes Cochrane-Iroquois Falls (O.E.C.T.A. Elementary), Cochrane-Iroquois Falls (A.E.F.O. Elementary), Cochrane-Iroquois Falls (A.E.F.O. Secondary), Ottawa (A.E.F.O.) and Stormont, Dundas and Glengarry (A.E.F.O.).

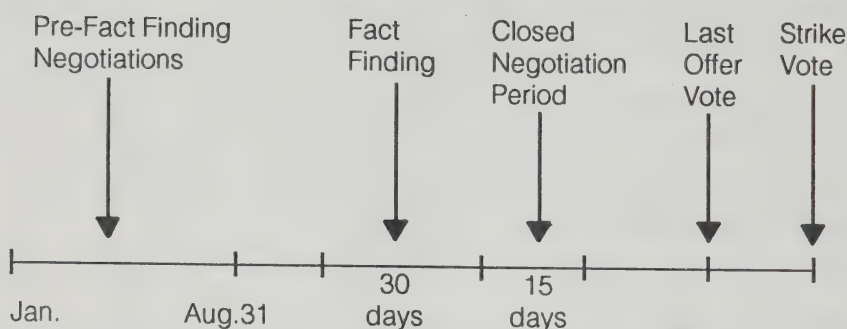
2. Third-Party Appointments

Figure 2 sets forth the possible stages in negotiations under Bill 100. The Act specifies that all collective agreements expire on August 31. If there are to be negotiations to renew the collective agreement, one of the parties is required to give its intent to negotiate (to the other party and to the Commission) in January of that year.

Negotiations between the parties typically occur from January to August without intervention from the ERC but if a settlement has not been reached by August 31, a mediator and/or a fact finder is appointed by the Commission to assist the parties. While mediation is voluntary, a fact finder must be appointed if an agreement has not been reached by August 31.

While it is possible for mediation and fact finding to occur **prior** to August 31, the more typical pattern is that portrayed in Figure 2. If a fact finder is appointed he/she has 30 days to hold a hearing with the parties and file a written report with the Commission and the parties. The report remains confidential for a 15 day period. If no settlement is reached during the 15 days, the report is released to the public. The teachers are then in a position to request Commission-supervised votes on acceptance or rejection of the school board's last offer and on the matter of strike.

Figure 2
Negotiation Stages under Bill 100



(a) Fact Finding

Fact finding affords an opportunity for the parties to clarify and narrow the differences which exist between them in order to reach a settlement when the collective agreement expires. As noted, the process becomes mandatory once August 31 has passed (the contract expiry date in all teacher/school board collective agreements). Further, it is a necessary procedure under the Act before teachers can take strike action or before a school board can initiate a lock-out. The fact finding process also recognizes the public's right to know the substantive, procedural and attitudinal issues of a dispute prior to any possible interruption to the normal school program.

The Commission may appoint a fact finder at any time during negotiations either upon the request of one or both parties, or if the Commission deems that the parties are at an impasse and would benefit from such assistance. The fact finder, a third party neutral, investigates the particular local situation and then files a written report with the Commission. A time limit of thirty days is established in the Act for the fact finder to meet with the parties, examine their written submissions, listen to oral arguments, write the report and submit it to the Commission. The Commission, in turn, delivers the report to the parties.

The report must set out those matters upon which the parties have agreed as well as those upon which they have not agreed. A fact finder

may make recommendations regarding any matter which he or she feels is relevant and on any of the items in dispute. The fact finder's recommendations, while not binding upon the parties, often narrow their differences, or are accepted by the parties in whole or in part.

It is clear from experience in the years since the passage of the Act that fact finding has the potential to assist and, in many cases, actually has assisted the parties in reaching negotiated settlements. To date, the Commission and the parties have generally found it to be a useful process which has worked reasonably well. At the same time, there were observations made before the Matthews Commission that not only were negotiations far too long but also that, in some cases, fact finding had contributed to the delay. There were also submissions that fact finding in some instances was ineffective and perhaps over-utilized by some of the parties.

We have reported before that under any labour legislation (including Bill 100), there is a very real danger that a process such as fact finding will be ignored or misused by the parties, thereby weakening the philosophical thrust of the Act and undermining its effectiveness. As a consequence, the Commission has encouraged the parties to utilize fact finding only if absolutely necessary. Its preference, wherever possible, is to have the parties settle prior to the point when, under the Act, the Commission must appoint a fact finder. Also, the Commission has attempted to strengthen the fact finding process. It has conveyed to its third parties that a meaningful fact finder's report is an essential part of the process — one which addresses in a concrete way the substantive and procedural issues in a dispute.

Two years ago, the results with respect to fact finding were troubling in that the Commission had to appoint a total of 130 fact finders. That is, out of a total of 227 sets of negotiations 57 per cent or 130 required a fact finder appointment. This represented one of the highest totals in both absolute and relative terms since the inception of the Commission. On this matter, in its 1984-85 Annual Report the Commission stated:-

... [T]he high number of appointments was not a surprise. That is, the 1984-85 results may simply be the result of bargaining inactivity [due to the **Inflation Restraint Act**]. On the other hand, the rate may be an indication that the legislation should be examined once again.

Against this background the results for 1985-86 and 1986-87 with respect to fact finding are encouraging. Table 3 lists the number of fact finder appointments for 1986-87. Table 4 includes the number of fact finder appointments from 1976-77 through 1986-87 (in absolute numbers and as a percentage of the number of negotiating situations). As revealed in Table 4, in relative terms there has been a return to the more typical experience under Bill 100. In roughly one-third of the cases the parties require a fact finders report before settling but this does not represent a significant shift from past experience.

Table 3 Fact Finder Appointments, Reports Released to Parties and Reports Made Public, 1986-87

Board Classification	Fact Finder Appointments	Reports Released to Parties	Reports Made Public
Boards of Education — Elementary ¹	28	25	21
Boards of Education — Secondary ¹	32	28	25
County and District Combined Roman Catholic School Boards ²	16	12	9
Other School Boards	4	2	2
Total	80	67	57

1. Includes central agreement covering Boards of Education within Metropolitan Toronto.

2. Includes Stormont, Dundas and Glengarry (A.E.F.O.)

Table 4 Fact Finder Appointments, Reports Released to Parties and Reports made Public 1976-77 to 1986-87

Year	No. of Situations Negotiating	Fact Finder Appointments	Reports Released to Parties	Reports Made Public
1976-77	189	71 (37.6%)	51 (27.0%)	39 (20.6%)
1977-78	210	63 (30.0%)	54 (25.7%)	42 (20.0%)
1978-79	207	114 (55.1%)	95 (45.9%)	69 (33.3%)
1979-80	180	109 (60.5%)	86 (47.8%)	77 (42.8%)
1980-81	132	49 (37.1%)	43 (32.6%)	34 (25.8%)
1981-82	168	50 (29.8%)	37 (22.0%)	29 (17.3%)
1982-83	173	62 (35.8%)	52 (30.1%)	48 (27.7%)
1983-84	178	0	0	0
1984-85	227	130 (57.3%)	108 (47.6%)	92 (40.5%)
1985-86	192	81 (42.2%)	62 (32.3%)	53 (27.6%)
1986-87	190	80 (42.1%)	67 (35.3%)	57 (30.0%)

(b) Mediation Appointments

Mediators, or "persons to assist" as they are referred to under Section 13 of the Act, can be appointed at any time, either at the direction of the Commission or, with Commission concurrence, at the request of one or both parties. Table 5 sets forth the number of mediators appointed in 1986-87 and in each bargaining round since the inception of the Act. Mediators were appointed in 65 situations in the 1986-87 bargaining year, or in slightly more than 34 per cent of the cases. (This represents an increase over the previous year when 25.5 per cent of the cases required mediation but is well below the 1984-85 rate when mediators were appointed in 42 per cent of the cases).

Table 5 Appointment of Mediators, 1975-76 to 1986-87

	Total number of negotiations conducted	Mediators appointed Number	Percent of Total Number of negotiations conducted
1975-76	205	51	25.0
1976-77	189	38	20.1
1977-78	210	58	27.6
1978-79	207	72	34.8
1979-80	180	63	35.0
1980-81	132	35	27.3
1981-82	168	47	28.0
1982-83	173	50	28.9
1983-84	178	5	2.8
1984-85	227	96	42.3
1985-86	192	49	25.5
1986-87	190	65	34.2

As indicated in Table 6, no mediation was required in 125 of the 190 negotiations or in 66% of the cases. The results indicate third party activity roughly in line with previous negotiation rounds (see Table 7). Also, as indicated in Table 7 no mediation was required both before and after fact finding suggesting a reduction in the length of mediation.

Table 6 Assignment Of Mediators, 1986 - 87

Board Classification	No. of Situations Negotiating	No Mediation	Mediation Only	Mediation Pre Fact Finding Only	Mediation Post Fact Finding Only	Mediation both Pre and Post Fact Finding
Board of Education — Elementary	60	41	3	7	9	—
Board of Education — Secondary	63	34	4	13	12	—
County & District Combined Roman Catholic School Board	32	19	3	2	8	—
Other School Boards	35	31	2	1	1	—
Total	190	125	12	23	30	—

Table 7 Assignment Of Mediators, 1976-77 to 1986-87

Year	No. of Situations Negotiating	No Mediation	Mediation Only	Mediation Pre Fact Finding Only	Mediation Post Fact Finding Only	Mediation both Pre and Post Fact Finding
1976-77	189	151 (79.9%)	7 (3.7%)	2 (1.0%)	28 (14.8%)	1 (0.5%)
1977-78	210	152 (72.3%)	21 (10.0%)	3 (1.4%)	24 (11.4%)	10 (4.7%)
1978-79	207	135 (65.2%)	9 (4.3%)	7 (3.4%)	47 (22.7%)	9 (4.3%)
1979-80	180	117 (65.0%)	4 (2.2%)	3 (1.7%)	46 (25.5%)	10 (5.5%)
1980-81	132	97 (73.5%)	9 (6.8%)	3 (2.8%)	21 (15.9%)	2 (1.5%)
1981-82	168	121 (72.0%)	16 (9.5%)	10 (5.9%)	17 (10.1%)	4 (2.4%)
1982-83	173	123 (71.1%)	13 (7.5%)	20 (11.5%)	14 (8.1%)	3 (1.7%)
1983-84	178	173 (97.2%)	5 (2.8%)	0	0	0
1984-85	227	131 (57.7%)	22 (9.7%)	16 (7.0%)	48 (21.1%)	10 (4.4%)
1985-86	192	143 (74.5%)	8 (4.1%)	10 (5.2%)	30 (15.1%)	1 (0.5%)
1986-87	190	125 (65.8%)	12 (6.3%)	23 (12.1%)	30 (15.8%)	0

Table 8 shows the number of jurisdictions which received either fact finding or mediation assistance. A slight increase from the previous year is in evidence. In 1985-86 46% of the jurisdictions experienced either a fact finding or mediation appointment. This increased to 48% in 1986-87 but this is well below the highs established in 1978-79, 1979-80 and 1984-85.

Overall, therefore, the amount of third party activity in 1986-87 could be characterized as average when compared to the experience in previous years.

Table 8 Jurisdictions which received either Fact Finding or Mediation Assistance 1976-77 to 1986-87

Year	No. of Situations Negotiating	Fact Finder Appointments	Mediation Appointments	Total	%
1976-77	189	71	7	78	41.3
1977-78	210	63	21	84	40.0
1978-79	207	114	9	123	59.4
1979-80	180	109	4	113	62.8
1980-81	132	49	9	58	43.9
1981-82	168	50	16	66	39.3
1982-83	173	62	13	75	43.3
1983-84	178	0*	5	5	2.8
1984-85	227	130	22	152	67.0
1985-86	192	81	8	89	46.3
1986-87	190	80	12	92	48.4

* No negotiations due to Provincial Restraint Legislation.

3. Supervised Votes: Last Offer, Strike and Ratification

Prior to any strike activity, the teachers must first request (in writing) the Board's last offer concerning all matters agreed upon and all matters remaining in dispute. A secret ballot vote on the Board's last offer must then be conducted under the Commission's supervision. If the teachers reject this offer, a second secret ballot vote to determine whether the teachers favour a strike may then be held, again under the supervision of the Commission. Any ratification vote ending a strike also must be supervised by the Commission.

Table 9 contains the number of last offer, strike and ratification votes conducted by the Commission over its history including the 1986-87 round. A total of 36 votes — 16 last offer, 14 strike and 3 ratification — were supervised by the Commission.

The number of last offer and strike votes represents the negotiations which go, or almost go, to sanction. That is, last offer and strike votes are an index of the degree of difficulty of negotiations in a particular negotiation round. The number of votes in 1986-87, although slightly higher than last year are not out of line with the long run experience.

Table 9 Supervised Boards' Last Offer, Strike and Ratification Votes, 1975-76 to 1986-87

Vote	75-76	76-77	77-78	78-79	79-80	80-81	81-82	82-83	83-84	84-85	85-86	86-87	Total
Board's Last Offer Votes													
Elementary *	—	—	2	1	1	—	—	—	—	3	1	1	
Secondary	15	5	8	9	12	1	7	4	—	23	7	8	
R.C.S.	—	5	5	3	12	3	5	—	—	13	7	7	
Other	—	—	—	1	1	1	—	—	—	—	—	—	
Total	15	10	15	14	26	5	12	4	—	39	15	16	171
Strike Votes													
Elementary	—	—	1	1	1	—	—	—	—	—	1	1	
Secondary	15	4	7	4	9	1	5	1	—	16	4	7	
R.C.S.	—	1	4	2	7	2	5	1	—	7	5	6	
Other	—	—	—	1	1	—	—	—	—	—	—	—	
Total	15	5	12	8	18	3	10	1	—	23	10	14	119
Ratification Votes													
Elementary	—	—	—	—	2	—	—	—	—	—	—	—	
Secondary	—	1	5	2	4	2	3	—	—	2	2	1	
R.C.S.	—	—	1	—	2	1	2	—	—	3	1	5	
Other	—	—	—	—	—	—	—	—	—	—	—	—	
Total	—	1	6	2	8	3	5	—	—	5	3	6	39
Total Vote by Year	30	16	33	24	52	11	27	5	—	67	28	36	329

Note: * Includes central agreement covering Boards of Education within Metropolitan Toronto.
 Note: Boards of Education within Metropolitan Toronto counted individually

4. Strikes, Lock-outs and School Closings

From the 190 sets of negotiations referred to in Table 2, six resulted in sanctions (see Table 10). Of the six sanctions experienced during the reporting period five involved Roman Catholic School Boards. Salary parity with Boards of Education in the same jurisdiction was the major issue in most cases. There was one secondary school teachers' strike during this period. Two of the sanctions exercised against the school boards consisted of "work to rule" without any withdrawal of services. In the case of the Windsor Roman Catholic School Board the sanction took the form of full withdrawal followed by a "work to rule" after a tentative agreement had been reached pending ratification by the parties.

In the case of the Windsor Roman Catholic School Board the major issue was parity with the Windsor Board of Education with respect to salaries and benefits. It was reported to the Commission that the parties experienced an improvement of the relationship during over 200 hours of mediation prior to a tentative agreement being reached.

In the sanction against the Sault Ste. Marie Roman Catholic School Board two of the major issues concerned the Early Retirement Incentive Plan and parity with respect to salary benefits with the Sault Ste. Marie Board of Education. Two mediators appointed by the Education Relations Commission spent more than 60 hours in mediation before a tentative agreement was achieved.

The most extensive complete withdrawal of services occurred at the Dryden Board of Education. The secondary school teachers withdrew their services for a period of 33 instructional days. During this dispute, three mediators appointed by the Commission spent approximately 200 hours assisting the parties to reach a three year agreement. The main issues included the salary grid and the benefit package.

The two main issues involved in the sanction against the North Shore Roman Catholic School Board were the retirement gratuity and preparation time. A settlement was negotiated with mediator assistance of over 150 hours.

Work-to-rule sanctions were imposed on the York Region Roman Catholic School Board and on the Frontenac Lennox and Addington Roman Catholic School Board. Nearly 200 hours of mediation assistance was provided by the Commission in these jurisdictions. In the York Region dispute major issues included the salary, grid preparation time and class size. The dispute in Frontenac, Lennox and Addington centred around the salary grid, preparation time, staffing and noon hour supervision.

**Table 10 Strikes, Lock-Outs and Closing of Schools, 1985-86
September 1, 1986 to August 31, 1987**

Board	Number of Schools	Number of Teachers In Branch Affiliates	Number of Students Affected	Type of Sanction	Duration of Sanction	Final Settlement
1986-87						
Windsor RCS Board	49	939	15,117	Full withdrawal	Feb 10 - Mar 2/87 (14 instruct. days)	Negotiated with mediation assistance
Sault Ste. Marie RCS Board	26	385	6,821	Work-to-Rule	Mar 3 -10/87 (6 Instruct. days) (5 Instruct. days)	Secondary Panel Elementary Panel
York Region	52	1,279.3	22,654.5	Full withdrawal	Feb 16 - Mar 25/87 (23 Instruct. days)	Negotiated with mediation assistance
Dryden Secondary	3	118.3	1,514.8	Work-to-Rule	Feb 16 - Mar 24/87 (22 Instruct. days)	Negotiated with mediation assistance
North Shore RCS Board	11	185	3,041	Full withdrawal	Apr 6 - May 25/87 (33 Instruct. days)	Negotiated with mediation assistance
Frontenac, Lennox & Addington RCS Board	19	318.5	5,570.5	Work-to-Rule	Apr 7 - May 10/87 (23 Instruct. days)	Negotiated with mediation assistance
					Apr 27 - May 20/87 (16 Instruct. days - Elem) (17 Instruct. days - Sec)	Negotiated with mediation assistance

A complete record of sanctions since the passage of the Act is included in Appendix B.

5. Voluntary Binding Arbitration / Final Offer Selection

At any time during negotiations, the parties can mutually agree to choose one of two options of the third-party resolution: voluntary binding arbitration or final offer selection. If a negotiated settlement is reached at any time during these procedures, the process is automatically terminated. As indicated in Table 11 voluntary binding arbitration was not utilized in any jurisdiction during the 1986-1987 round of negotiations. The following is a description of the process involved in each of these options.

(a) Voluntary Binding Arbitration

Under the voluntary binding arbitration procedure, the parties may refer all matters remaining in dispute to either an arbitrator or a board of arbitration. Within 7 days of the appointment of the arbitrator or chairman of the arbitration board each party must submit to the other party and to the arbitrator/chairman, written notice of all matters agreed upon during negotiations and all matters remaining in dispute. The arbitrator or board of arbitration is responsible for determining procedures which give both parties full opportunity to present their evidence and make their submissions.

Table 11 Agreements Reached by Voluntary Binding Arbitration or Final Offer Selection, 1986-87

Board Classification	Agreements Reached by Voluntary Binding Arbitration	Agreements Reached by Final Offer Selection
Boards of Education		
— Elementary	—	—
Boards of Education		
— Secondary	—	—
County and District		
Combined Roman Catholic School Boards	—	—
Other School Boards	—	—
Total	0	0

Within 60 days of the appointment of the arbitrator/chairman, or such longer period of time as the two parties may agree to, the arbitrator or board of arbitration must provide the parties with a written report of his/its decision. The decision of the arbitrator or board of arbitration is final and binding and the parties are required, within 30 days following receipt, to incorporate within a signed agreement the matters agreed to in negotiations and the decision rendered through arbitration.

(b) Final Offer Selection

Under this resolution procedure, each party's final position concerning the items remaining in dispute, together with any supporting evidence, is presented to a selector and the other party within 15 days of appointment of the selector. The parties may then provide written responses to the other party's position and the selector may hold a hearing.

Within 15 days of the hearing (or notice from the parties to dispense with the hearing), the selector must choose one party's final offer in its entirety. This offer is then incorporated into an agreement which also includes those items agreed to by the parties during negotiations.

6. Grievance Arbitration

Grievance procedure clauses in some collective agreements specify that the Commission be asked to appoint a single arbitrator or chairman of an arbitration board to resolve a grievance as the final and binding step of the procedure.

During 1986-87, the Commission made 8 such appointments, 5 were chairmen of arbitration boards, and 3 were single arbitrators (see Table 12). Figures since 1976-77 are presented in Table 13.

Table 12 Appointments Concerning Grievance Arbitration, 1986-87

Board Classification	Number of Appointments By ERC	Nature of Appointments
Boards of Education — Elementary	—	
Board of Education — Secondary	1	1 Single Arbitrator
County and District Combined Roman Catholic School Boards	7	2 Single Arbitrators 5 Chairmen
Other School Boards	—	—
Total	8	

**Table 13 Appointments Concerning Grievance Arbitration
1976-77 to 1986-87**

Year	No. of Appointments by E.R.C.
1976-77	9
1977-78	13
1978-79	13
1979-80	8
1980-81	14
1981-82	3
1982-83	3
1983-84	7
1984-85	8
1985-86	10
1986-87	8

7. Determination of Good Faith Bargaining

Table 14 outlines the number of complaints of failure to bargain in good faith which were received by the Education Relations Commission in 1986-1987.

On February 6, 1987 the Hamilton-Wentworth Unit of the Ontario English Catholic Teachers' Association and the Hamilton-Wentworth Unit of L'Association des Enseignants Franco-Ontariens filed a complaint of failure to bargain in good faith against the Hamilton-Wentworth Roman Catholic School Board.

On February 9, 1987 the Ontario English Catholic Teachers' Association Hamilton High Unit filed a similar complaint against the Hamilton-Wentworth Roman Catholic School Board. The complaints were based on the allegation that the Board had refused to negotiate separately with the secondary school teachers and with the elementary school teachers but insisted on joint negotiations based on a two-tier proposal which was rejected by both the secondary and elementary school teachers. The complaints were in response to the position taken by the Hamilton-Wentworth Roman Catholic School Board as to the effect of Bill 30 on the bargaining structure.

In an earlier determination with respect to the Cochrane-Iroquois Falls Roman Catholic School Board (reported in detail in the 1985-86 Annual Report of the Education Relations Commission) the Commission concluded that the election by a separate school board to receive public funds under Bill 30 resulted in the creation of a Roman Catholic school board. In the Commission's analysis, a newly established Roman Catholic School Board operates distinct publicly funded elementary and secondary school boards. Accordingly, the Commission found that the branch affiliate had properly attempted to pursue separate negotiations for its separate (i.e. elementary) and secondary school members.

The requests with respect to the Hamilton-Wentworth Roman Catholic School Board for determinations under section 60(1)(f) of the **School Boards and Teachers Collective Negotiations Act** raised the identical question of statutory interpretation which was decided by the Commission in the Cochrane-Iroquois Falls case. The request did not indicate that any facts were in dispute.

Given the nature of the requests, and in accordance with its rules of procedure the Commission decided to make its determination solely on the basis of written submissions and not to convene an oral hearing.

Because the disposition of the requests was significant throughout the Province the Commission decided to afford the opportunity to interveners to make written representations as to the effect of the provisions of Bill 30 on the collective bargaining structure. The organizations identified below were invited to make written submissions.

Ontario School Trustees' Council

The Association of Large School Boards in Ontario

Ontario Public School Trustees' Association

Northern Ontario School Trustees' Association

Ontario Separate School Trustees' Association

L'association Francaise des Conseils Scolaires de l'Ontario

Ontario Teachers' Federation

Ontario Secondary School Teachers' Federation

Federation of Women Teachers' Associations of Ontario

Ontario Public School Teachers' Federation

Ontario English Catholic Teachers' Association

Association des Enseignants Franco-Ontariens

Written submissions were received from the parties and from the interveners listed below.

Ontario Public School Trustees' Association

Ontario Separate School Trustees' Association

Ontario Secondary School Teachers' Federation

Ontario English Catholic Teachers' Association

Association des Enseignants Franco-Ontariens

The Commission made its determination on May 21, 1987. The determination included the following:

As we found in Cochrane-Iroquois Falls, Bill 30 does create a new entity, viz. a **Roman Catholic school board**. Such an entity clearly has been created. It is specifically provided for in the **Education Act**. It also is clear that **only** a Roman Catholic school board can provide secondary school education under the provisions of Bill 30. Section 136(c) is specific and unambiguous on this point....

This now brings us to the **Negotiations Act** and the definition of a "board" under our home statute. The **Negotiations Act** is a labour relations statute and it has a decidedly different purpose than the **Education Act**, and is to be interpreted with a view to furthering harmonious relations between boards and teachers. In this regard we are of the view that a Roman Catholic school board is a secondary school board and thus a "board" within the meaning of our statute. We note that a Roman Catholic school board was created **specifically** to perform the duties of a secondary school board. In this light, and to the same effect as Cochrane-Iroquois Falls, we find that for the **Negotiations Act** a Roman Catholic school board is a secondary school board for secondary school purposes within the meaning of s.1(c). For the **Negotiations Act**, we find there is also a Roman Catholic separate school board for elementary school purposes. Or, alternatively, and to the same effect, for the **Negotiations Act** a Roman Catholic school board acts in the capacity of a secondary school board for secondary school purposes and in the capacity of a Roman Catholic separate school board for elementary school purposes. In either case, O.E.C.T.A. may undertake separate elementary-secondary negotiations at the respondent board....

In conclusion, the branch affiliates of O.E.C.T.A. have the right to file two separate notices of intent to negotiate with the Hamilton-Wentworth Roman Catholic School Board. In the result and pursuant to s.60(1)(f) it is our view that the Hamilton-Wentworth Roman Catholic School Board is in violation of s.11 of the **Negotiations Act** and accordingly we determine and direct that the board shall negotiate with the branch affiliates as separate entities and in accordance with the requirements of s.11.

On June 10, 1987 the Commission was advised that the Hamilton-Wentworth Roman Catholic School Board was commencing an Application for Judicial Review in the Supreme Court of Ontario.

Table 14 Good Faith Bargaining Charges, 1986-87

Complainant	Respondent	Disposition
Branch Affiliates of OECTA Elementary and AEFO Elementary	Hamilton-Wentworth Roman Catholic School Board	Upheld
Branch Affiliate of OECTA Secondary	Hamilton-Wentworth Roman Catholic School Board	Upheld
Metropolitan Toronto School Board and the Boards of Education within Metropolitan Toronto	Branch Affiliates of OSSTF and AEFO (Secondary)	Withdrawn
Branch Affiliates of OECTA	Sault Ste. Marie Roman Catholic School Board	Withdrawn

8. Advisements

During the 1986-87 negotiation round no advisements were issued by the Commission concerning its obligation to advise the Lieutenant Governor-in-Council when in its opinion the continuation of a strike, lock-out, or closing of schools would place in jeopardy the successful completion of courses of study by students.

9. Report of the Ontario Ombudsman

During the strike of secondary school teachers employed by the Grey County Board of Education during the period September 23 to November 10, 1985 an organization of parents was formed under the title of Grey County Parents for Education. The Chairman of the parents' group filed a complaint with Mr. Daniel G. Hill, the Ontario Ombudsman. The complainant contended that:

- the Education Relations Commission had failed to advise the Minister of Education that the students were in jeopardy of not successfully completing their courses of study for the school year;
- the Education Relations Commission had unreasonably failed to maintain a constant awareness of the status of negotiations between the teachers and the school board;
- the Education Relations Commission had not properly informed the Minister of Education of the status of the sanction.

The Ombudsman completed his report during the reporting year and filed a copy with the Commission. The following extracts are reproduced from the report.

I believe it is important to once again review the major principle upon which the Education Relations Commission operates under the **School Boards and Teachers Collective Negotiations Act**. In reference to that Act it is the duty of the Commission to assist the parties in their collective bargaining. The Commission also has the duty under section 61(1)(h) of the Act not to declare jeopardy but to advise the Lieutenant Governor-in-Council when in the opinion of the Commission the continuance of a strike will place in jeopardy the successful completion of courses of study by the students affected by the strike. Therefore in exercising its duty, the Commission does indeed face two potentially conflicting policies in the Act. On the one hand, the Act envisions free collective bargaining with a possibility of resorting to strike or lock-out. On the other hand, when the harm becomes too great or the risks conclusive, the statute contemplates that the right of the parties to impose sanctions may be subordinated to the right of the students to resume their education. To effect such a balance between these policies is the difficult task facing the Commission.

With respect to the parents' concerns that the Minister of Education and the Parliamentary Assistant were not properly informed, I note that a photocopy of a May 15, 1984 Report of the Commission was sent to the Minister advising him of the appointment of the fact finder effective May 14, 1984. In a subsequent report dated August 14, 1984, the Minister was directly advised that the fact finder's report had been submitted on June 14 and made public on July 14, 1984. I note further that after May 6, 1985 when the teachers requested a last offer and strike vote, the Education Relations Commission provided to the Minister regular written reports on the status of negotiations in the Grey County dispute. Subsequent reports were completed on several occasions in May, June, July and September, 1985.

In addition to obtaining the above-noted documentation, personal interviews were held with Mr. Field, Dr. Downie and the Ministry of Education's chief staff member responsible for advising the Minister of the ongoing status of negotiations particularly during strikes. That information has revealed that during the strike Mr. Field was in contact with the Minister's office on almost a daily basis to apprise the Minister and his staff of the situation. From Ms. Van Kleef's discussions with the Minister's staff, I

note that the Ministry had no concerns about the Education Relations Commission's actions during that period. The Ministry has informed me that although the Education Relations Commission has no legislative obligation to keep the Ministry informed, communications on this kind of issue are very frequent.

While I completely understand and appreciate the concerns demonstrated by the parents in this case, the available information demonstrates, in my opinion, that the Education Relations Commission exercised its duties in a most responsible manner and was constantly aware of the negotiations in order to make an informed decision respecting the aspects of jeopardy.

In a case such as that registered by Grey County Parents for Education, the **Ombudsman Act** permits me to find a complaint to be supported and make an appropriate recommendation where I am of the view that the decision, or action complained of was "unreasonable, unjust, oppressive, or improperly discriminatory". Having considered the results of the investigation conducted by my Office, I am unable to so describe the acts and decisions of the Education Relations Commission in this case.

10. Duration of Agreements and the 1987-88 Round

Negotiation activity for the 1986-87 round was slightly lower than the previous year because of an increased number of two- or three-year agreements. In 1986-87 98 agreements were for two or more years (see Table 15) so that the level of negotiation activity will be much lower in 1987-88.

Table 15 Duration and Termination Dates of Settlements Concluded in 1986-87

Board Classification	Not Settled	1 Year Aug. 31/87	2 Years Aug. 31/88	3 Years Aug. 31/89
Boards of Education				
— Elementary	7	24	28	1
Boards of Education				
— Secondary	1	31	28	3
County and District				
Combined Roman Catholic Separate School Boards	—	7	23	2
Other School Boards	1	21	13	—
Total	9	83	92	6

V STAFF ACTIVITIES

1. Field Services

(a) Monitoring of Negotiations

The Commission maintains its awareness of negotiations between teachers and school boards through its Field Services staff. The two Field Officers under the direction and supervision of the Director of Field Services are responsible for monitoring the negotiations in all jurisdictions in the Province. This regular contact, by both on-site visits and phone enables the individual Field Service Officer to gain an understanding of emerging issues in negotiations and to become thoroughly familiar with the parties and important developments at the local level. In turn, the parties become better acquainted with the Commission's representatives and more knowledgeable about the Act and the Commission's policies, procedures and resources. Through this exchange, progress reports are gathered and procedures and requirements under the Act are clarified.

Maintaining an intimate awareness of negotiations between branch affiliates* and school boards is particularly advantageous when appointments of third party neutrals by the Commission become necessary. In making judgments regarding the appropriateness or timing of an appointment and/or the individual to be named as mediator or fact finder in any given area, the Commission has been able to rely on the first-hand information and advice of its Field Services staff.

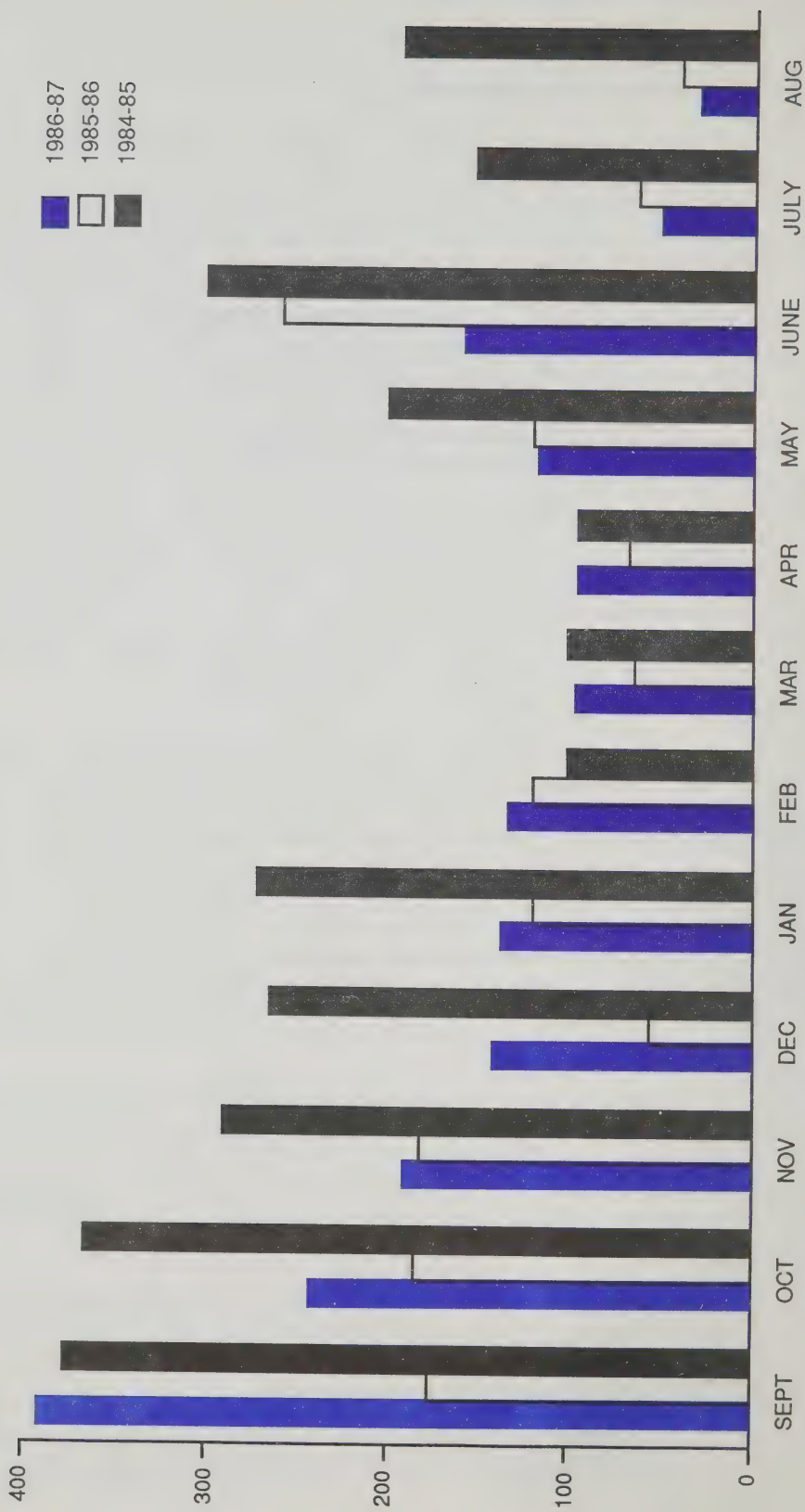
Field Services staff formally analyse all upcoming sets of negotiations early in the negotiation year. The analyses include an assessment of the probable degree of difficulty of each situation and the identification of possible troublesome issues and potential barriers or stumbling blocks to settlement. Their analyses also include recommendations on the style, timing and type of third party assistance appropriate to each situation. This material is summarized and evaluated against past historical developments in the particular teacher/school board relationship. Through this system, more effective and economical appointments are made. Moreover, more informed decisions concerning third party appointments have resulted.

In the monitoring activities, emphasis is placed on the Field Service Officer establishing a high profile with the parties and on strengthening the relations between the field officer and the branch affiliates and school boards. This enables the Commission to provide the best possible service to the parties in their negotiations and to assist teacher-board relations.

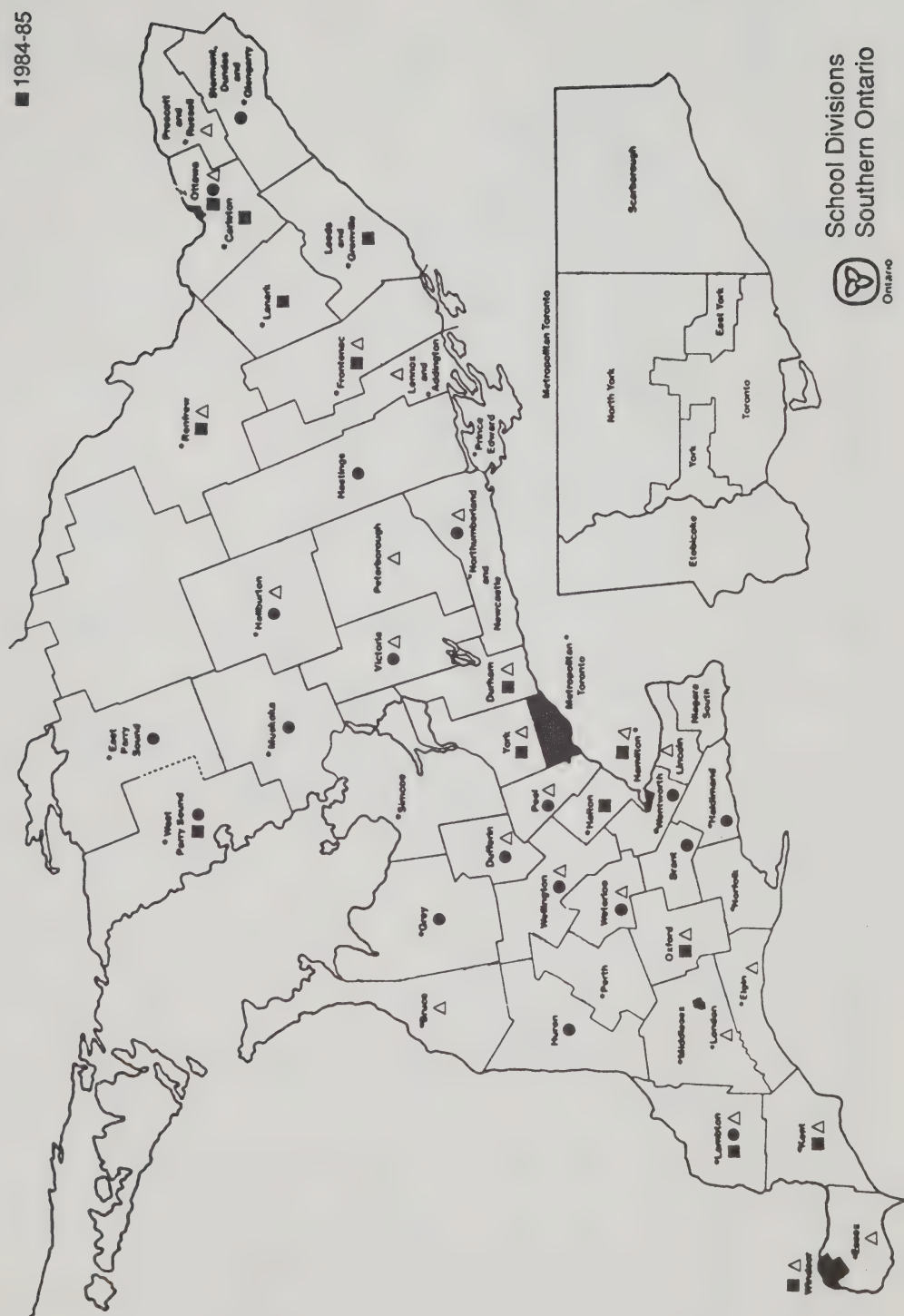
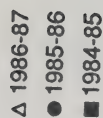
Figure 3 indicates on a monthly basis, the level of telephone monitoring activity on the part of Field Services staff during the 1986-87 year. The staff's visits to various jurisdictions in the province during the past year are illustrated on the following pages.

* A branch affiliate is composed of all the teachers employed by a board who are members of one of the Provincial teachers federations or associations. A branch affiliate is comparable to a local union.

Figure 3 Telephone Calls In-Coming and Out-Going Field Service Monitoring



Δ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR

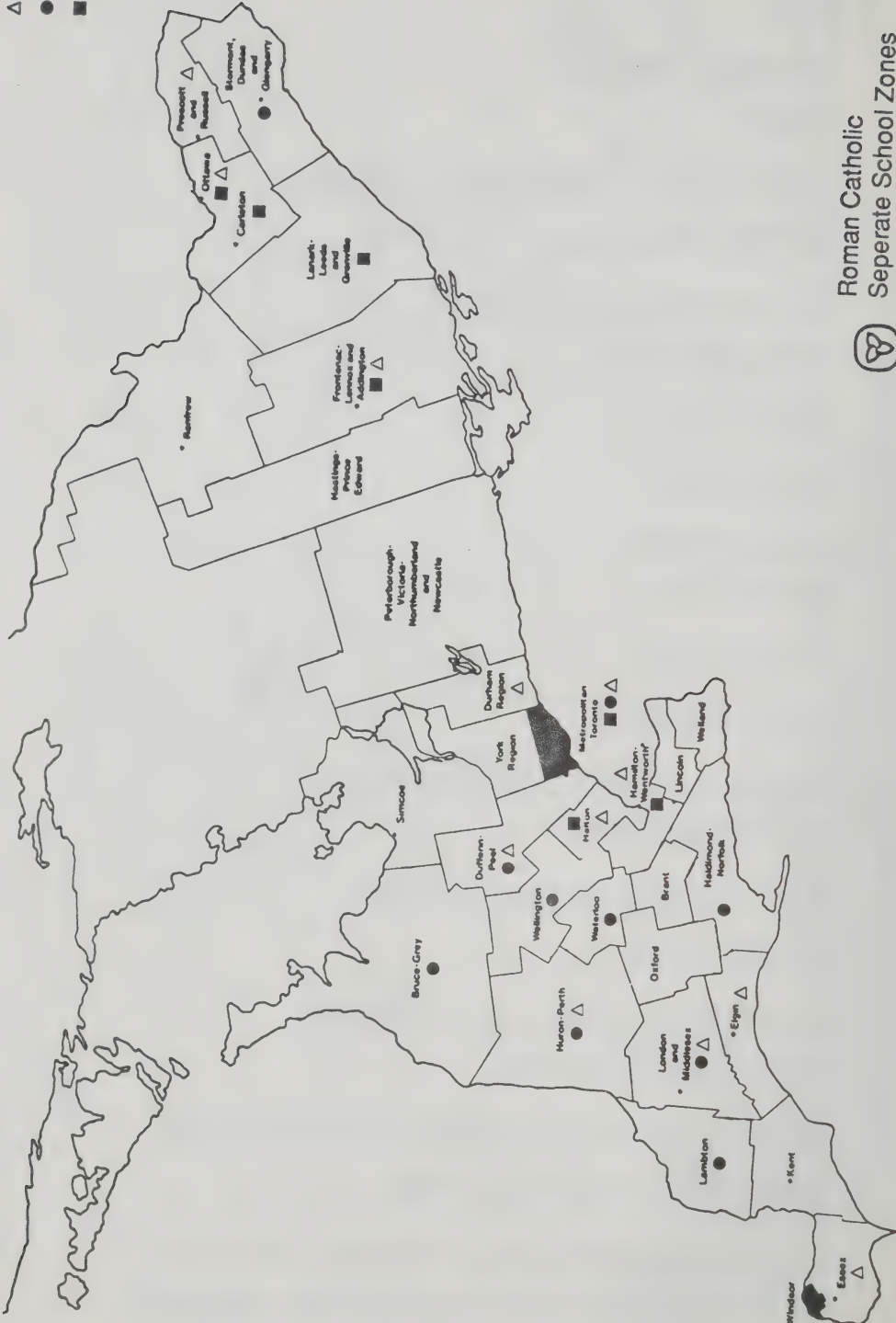


School Divisions Southern Ontario



Δ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR

- Δ 1986-87
- 1985-86
- 1984-85

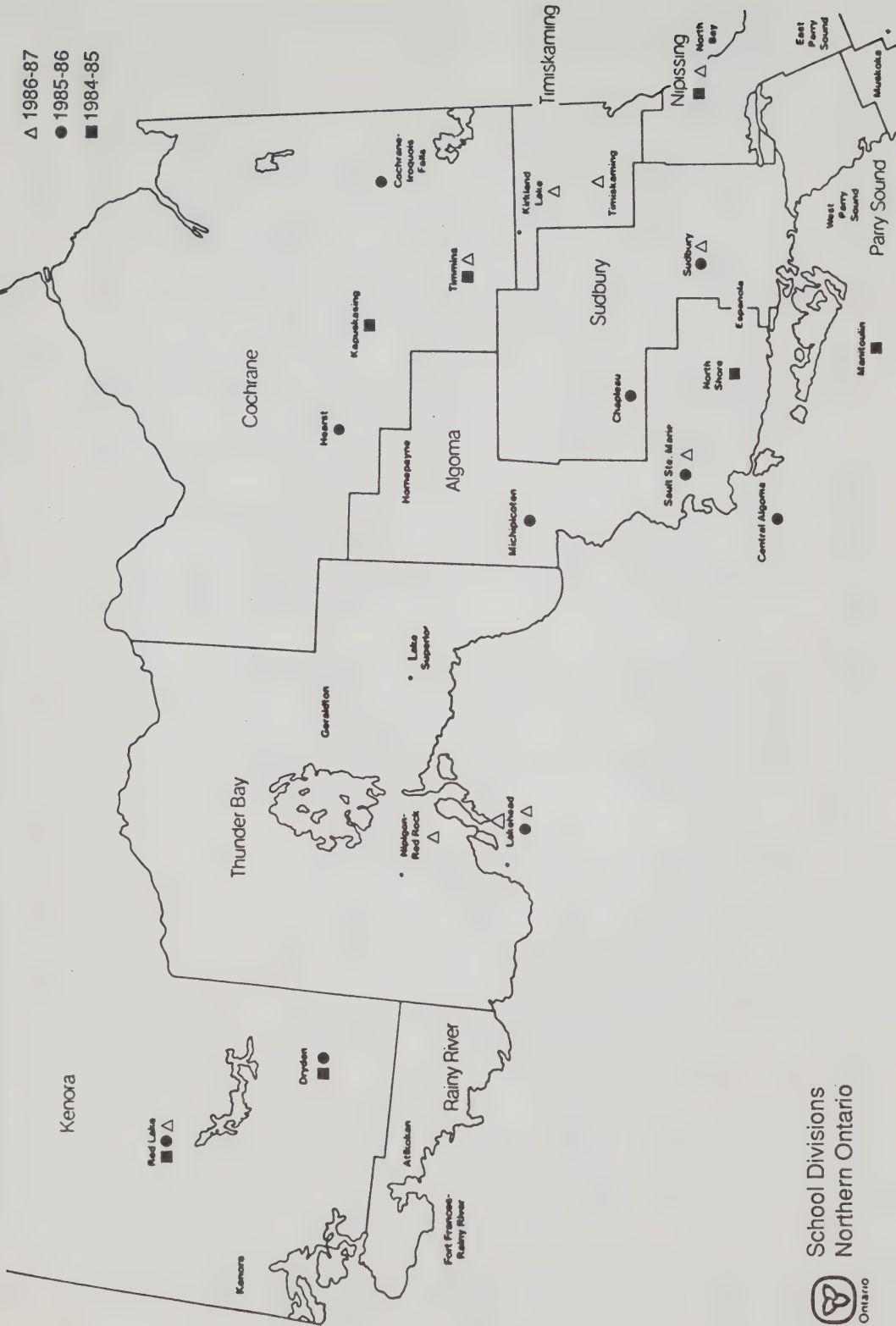


Roman Catholic
Separate School Zones
Southern Ontario



△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR

- △ 1986-87
- 1985-86
- 1984-85

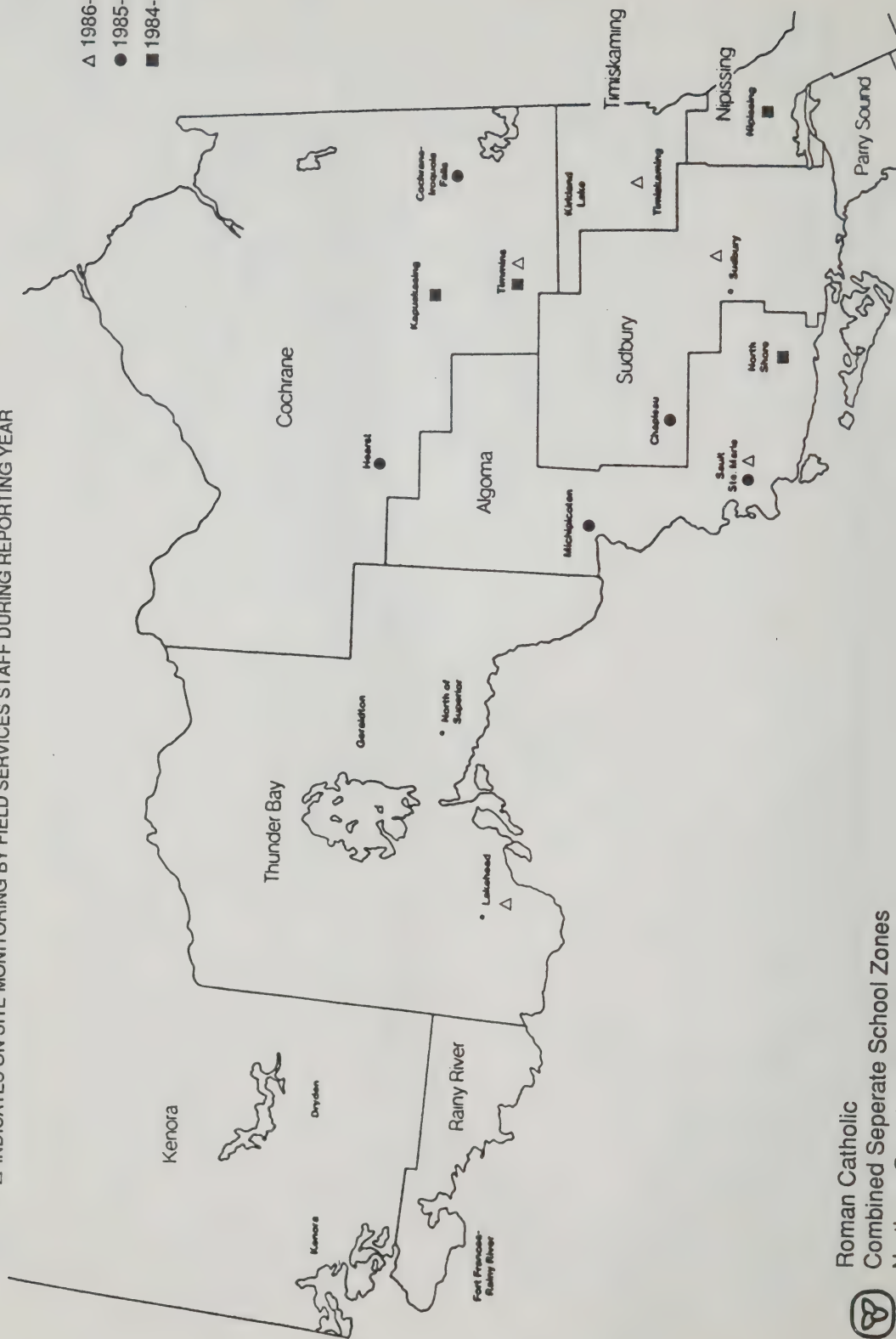


School Divisions
Northern Ontario



△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR

- △ 1986-87
- 1985-86
- 1984-85



In addition to the monitoring and third-party appointment processes, Field Services staff members are intensively involved in a number of other Commission endeavours:

1. selection, training and evaluation of third-parties;
2. quasi-judicial matters;
3. preventive mediation programs;
4. other miscellaneous activities.

(b) Selection and Training of Third Parties

Beyond the role which Field Services staff perform in the appointment of third party neutrals, they are also engaged in their selection, training and evaluation.

(i) Selection

Section 60(1)(e) of the Act directs the Commission "to select and where necessary, to train persons who may act as mediators, fact finders, arbitrators, and selectors."

The Commission selects persons from a list of qualified fact finders and mediators to assist in collective negotiations as required. Its roster includes men and women from a variety of occupations including labour/management arbitrators, labour lawyers, academics and former educational administrators and teachers. The Commission continues to recruit a number of third parties who are bilingual.

Today, individuals who are utilized by the Commission not only must bring strong qualifications to the ERC, but also must participate in the Commission's training programs. As well, the Commission now evaluates its third parties and only those individuals whose performance is superior continue to be appointed. The Commission continues to seek individuals whose background, experience and understanding of collective bargaining in education renders them eligible to provide the kind of third party assistance required by the ERC.

(ii) Training

During May, the Commission sponsored a Mediation Workshop for Women.

The purpose of the Workshop was threefold:

- (1) to expand the E.R.C.'s roster with capable female third parties to undertake future mediation assignments;

- (2) to provide a unique opportunity for women to be trained in the field of mediation;
- (3) to discuss possible and/or potential areas of difficulty peculiar to women in a still predominantly male field.

Twenty three women were recruited for this workshop and all agreed to attend. Ten of the women were already on the E.R.C. roster and had fact finding training and experience; some had limited mediation exposure as well. The other thirteen women came highly recommended by various labour relations specialists around the province.

The presenters, Albie Davies, director of the District Court Mediation Project in Massachusetts and Margaret Shaw, director of the Institute of Judicial Administration in Washington conducted an outstanding programme. The topics addressed were: intervenor models, the distinction between an adjudicatory and a participatory process; the mediator at work, a live simulation demonstration; an analysis of the techniques used in mediation; framing the issues; building and maintaining movement towards settlement; and special issues for women mediators. Much discussion, role play and skills identification took place in an atmosphere of high energy and sharing of experiences.

The women were welcomed by Jane Scott, E.R.C. Commissioner and given an introduction to the E.R.C.'s role and duties and the role of Field Services by Drena Nilsson, as well as an Overview of Research Services by Sharon McElroy.

The participants, through their evaluations, indicated that the endeavour was highly successful.

Amendments to the **Education Act** which extended full funding to the secondary grades within Roman Catholic Separate School Boards made the Commission responsible, in the absence of agreement between the parties, for appointing arbitrators to resolve disputes concerning the process by which school board employees were "designated" to move from the public to the Roman Catholic system as a result of any shift in student enrolment. Given this new area for arbitrators, staff planned an informational workshop to acquaint them with the legislation and relevant regulations. The workshop was not held, however, due to the lack of requests for the Commission to make such appointments.

(c) Quasi-Judicial Matters

Field Services staff are involved in two areas: (1) the appointment of Returning Officers in conjunction with branch affiliate requests to hold Commission-supervised votes, and (2) the investigation of complaints alleging the failure of a party to negotiate in good faith.

(i) Commission-Supervised Votes

Following the public release of a fact finder's report, a branch affiliate is in a position to request that the Commission supervise a vote by its members on the last offer received from the school board and/or whether or not a strike is favoured. Also, if a strike does occur, once a settlement is achieved during the strike, the teachers are required to conduct a Commission-supervised vote concerning the approval of the terms of agreement.

Field Services staff arrange for qualified people throughout the Province to act as Returning Officers for these votes. During the 1986-87 year, 36 votes were conducted in 16 jurisdictions.

(ii) Complaints related to Good Faith Bargaining

The Commission has established a procedure for dealing with complaints of this nature. The procedure provides that prior to a formal hearing an informal effort be undertaken to investigate a complaint with a view to its resolution. It has become customary for Field Services staff to act as investigators and a total of 4 complaints were dealt with during the 1986-87 year, 2 of which were resolved locally thus avoiding the need to proceed to a hearing.

(d) Preventive Mediation

Preventive mediation programs are administered by the Field Services unit. Their main purpose is to assist the parties in reducing, if not eliminating, the obstacles which prevent the parties from resolving matters of mutual concern. In addition preventive mediation attempts to equip the parties with tools which enable them to conduct their negotiations in a more effective and efficient manner within the existing structure of collective bargaining. It must be stressed that preventive mediation activities are not designed to change the present structure of collective bargaining. However, they are designed to enhance it and to make it work for the benefit of both parties. In contrast to conventional mediation, preventive mediation is conducted outside negotiations.

It should be stressed that preventive mediation program is offered only after both parties in a jurisdiction request ERC involvement.

Although experimentation with preventive mediation began in 1979-80, an official program was not established until 1980-81. The two dimensions of the preventive mediation program are: Relationships by Objectives and Grievance Mediation.

Prior to the formal establishment of Relationships by Objectives, the Commission provided an activity called "technical service". A chronology of technical service and Relationships by Objectives is contained in Appendix C.

(i) Relationships by Objectives (R.B.O.)

The R.B.O. program involves two numerically equal groups of teachers and trustees/administrators in working through the six steps identified below:

- I Identification of the issues to be resolved as seen by each side.
- II Explanation of issues and rationale by each side to the other.
- III Agreement on a list of objectives based on the issues.
- IV Creation of action steps to meet these objectives by groups composed of an equal number of members from each party.
- V Acceptance and/or tailoring of these action steps by teacher and trustee groups separately.
- VI Acceptance of action steps, assigning responsibility and setting time lines by whole group.

This program was originally developed to take place over three days in a residential setting. The Commission, in meeting the needs of the parties has altered this design to:

- 1) Accommodate the problems encountered in attempting to free key trustees, teachers and administrators for a three-day period during the school year.
- 2) Shorten the program from three days to two.

To achieve this, the first step in the process is held prior to the residential portion of the workshop. Also, using the information given by the parties in this first session, the Commission staff prepares a list of objectives which the parties accept and/or tailor in Step III.

The design of the program allows the participants to develop a separate statement of the issues in the school system. Then the parties work towards joint action steps to meet these objectives.

This structure, in combination with the time away from the pressures of the system, facilitates the opening of new communication links and channels as well as the clearing of inappropriate and inaccurate perceptions which exist in every organization.

The Commission in offering this program to school boards throughout Ontario, insists that two criteria be met:

1. Both parties indicate that they desire to participate in the program.

2. The program will not be offered in any jurisdiction where negotiations are in progress.

Jurisdictions which have utilized this program during the reporting year are listed below:

Red Lake Board of Education and its secondary teachers
Sault Ste. Marie Board of Education and its secondary teachers

(ii) Grievance Mediation

This program is designed to assist the parties in resolving differences between them which arise from the interpretation, application, administration or alleged contravention of the collective agreement. The use of this procedure does not preclude the parties from proceeding to arbitration if the matter is not resolved through mediation.

One purpose of grievance mediation is to alleviate the build up of negative attitudes which develop within a system because of unresolved grievances. Such grievances often become issues in negotiations. Moreover, grievance mediation is a method of solving disputes as close to the source and as quickly as possible. Lastly, grievance mediation is much less expensive than arbitration.

The Commission introduced grievance mediation in 1979-80. Meetings were held with the provincial teacher federations and trustees associations to introduce the concept, and explain some of its advantages.

A training session for grievance mediators was held in 1980-81. Eight mediators from across the province attended a two-day workshop which was designed to acquaint them with the arbitral jurisprudence developing in Ontario education and with the unique aspects of the grievance mediation process.

In February 1984, the Commission hosted a workshop for the parties on grievance mediation. The aim of the workshop was to explain the techniques and procedures involved in Grievance Mediation and compare this process in terms of cost, philosophy and practical aspect to Grievance Arbitration. Over 200 people attended and these encompassed the full spectrum of the education sector — teachers, trustees, administrators and boards' legal counsel.

The grievance mediation process, while utilized modestly, remains a useful and less costly alternative to rights arbitration.

A chronology of Grievance Mediation covering the period 1980-87 is contained in Appendix D.

(e) Other Miscellaneous Activities

Liaison activities continued with E.R.C. Field Services staff and the staffs of the various provincial bodies of teacher and trustee organizations. These sessions enable an on-going dialogue about the collective bargaining process and perceived problems or areas for improvement.

Throughout the year, Field Services staff were asked to act as presentors in a wide variety of workshops and seminars enabling the role and activities of the Commission to be explained on a first hand basis. Among others, staff were involved in the following:

Canadian School Trustees' Association Conference for Negotiators, Association of Labour Relations Agencies Annual Meeting and Conference, Ontario School Trustees' Council Salary Conference, Ontario Association of Education Administrative Officials Conference for Chief Executive Officers, Ontario Association of School Business Officials Contract Administration Workshop, Isolate Teachers' Conference, Ontario Municipal Personnel Association, Ontario Council for Leadership in Educational Administration Workshop.

2. RESEARCH SERVICES

(a) Information

Research Services - which is composed of a Director, two Research Specialists, and a Research Officer - is responsible for developing and maintaining a common collective bargaining data base. Local teachers and school boards rely heavily on this data base to identify emerging settlement trends, and to resolve factual disputes.

The Commission's data base contains salary, benefits and other working conditions information which has been extracted from over 2,000 collective agreements dating back to 1975-76. Also contained in the data bank are staffing, enrolment and school board expenditure information which is collected in cooperation with the Ministry of Education.

Research Services also maintains a reference library which contains a copy of all collective agreements, public fact finding reports, arbitration awards, final offer selection awards, and E.R.C. determinations. The library is open to the public.

Research officers participate actively in the training and evaluation of mediators and fact finders. The unit tries to improve the efficiency and effectiveness of third parties by supplying, on very short notice, historical and comparative analyses of salaries and other working conditions. These analyses are used by the third parties to evaluate the relative merits of the two parties' positions, and to develop recommendations which will assist the parties in reaching a rational and amicable settlement of their differences.

An in-house mini-computer was purchased by the E.R.C. in November 1985 to increase the scope and quality of its research services, while controlling the costs of data processing.

Direct access to the E.R.C.'s computerized system was granted to the provincial teacher and trustee organizations in November, 1985 and to local board and teacher branch affiliates in April, 1986.

The E.R.C. also joined the Ministry of Education's Educational Computing Network of Ontario (ECNO) in 1986. The Network allows users of the E.R.C. system to electronically move reports and data from the E.R.C. to local computers.

By June of 1986, six provincial teacher and trustee organizations and over fifty school boards and local branch affiliates were directly accessing E.R.C.'s computer. In addition, mediators, fact finders and other government organizations (such as Ontario's Human Resources Secretariat and the Ministry of Education for British Columbia) requested and were given permission to directly access E.R.C. data.

A further eighteen (18) school boards and branch affiliates are scheduled to come on line in August and September. The British Columbia Teachers' Federation, and the British Columbia Trustees' Association have also requested direct access for mid-September.

In August, 1987 the E.R.C. introduced a new, and greatly enhanced, database system based on state-of-the-art artificial intelligence and expert advisory system concepts. The new system:

1. tries, wherever possible, to simplify matters to facilitate access by inexperienced and non-technical users;
2. significantly decreases user reliance upon research staff for programming support;
3. provides comprehensive and sophisticated graphics capabilities to assist users in visualizing relationships;
4. offers a powerful spreadsheet/modeler system for conducting "what if" analyses;
5. introduces a unique menu driven and interactive "data analysis advisor". The advisor leads users through the analytic process and provides extensive support and guidance on appropriate statistical techniques and methodologies;
6. includes a simple to use, yet extremely powerful, text and graphics formatter for preparing textbook-quality reports.

The ERC has also entered into a number of partnerships with other organizations. The Ontario English Catholic Teachers Association (OECTA), for example, is working closely with the E.R.C. to develop and test the new system. The Ontario Public School Trustees' Association (OPSTA) is assisting the E.R.C. in collecting salary and working conditions information for non-teacher school board bargaining units. The Ministry of Education in British Columbia is working with the E.R.C. to develop a national data base. And the Ministry of Education has agreed to work with the ERC to find ways to facilitate access to Ministry data deemed to be particularly useful for resolving problems at the bargaining table.

b) Research

Research Services contracted with Professor Richard Jackson of Queen's University to study the efficacy and effect of the fact finding process under the provisions of Bill 100. Local teacher and trustee chief negotiators were sent a questionnaire survey to obtain their evaluations of the process and to solicit their recommendations for improving the process. A final draft of the results is expected in the Fall of 1987.

APPENDIX A BIOGRAPHIES OF THE COMMISSIONERS

Chairman

Bryan M. Downie, B.A. (Concordia, Minnesota), M.B.A. (University of Chicago), Ph.D. (University of Chicago).

Dr. Downie, (Professor, Industrial Relations and Public Policy, Queen's University) has served as a fact finder, mediator, and interest arbitrator. He has published extensively in the area of labour relations and his book, **Collective Bargaining and Conflict Resolution in Education** examines the activities and policies of the Education Relations Commission during its formative years. He is past President of the Canadian Industrial Relations Association and is Canadian Director and a Board member of the Society of Professionals in Dispute Resolution, an association of third party neutrals based in Washington, D.C.

Vice-Chairman

T. Gary O'Neill, B.A. Sc. (University of Toronto), M. Eng. (Carleton), LL.B. (University of Ottawa)

Mr. O'Neill, is a member of an Ottawa law firm who is knowledgeable in both dispute resolution and the issues in the education sector of Ontario. Since 1977, Mr. O'Neill has served as a third-party on numerous occasions.

Commissioner

John Irwin Zeiler, B.A. (University of Toronto), LL.B. (University of Toronto).

Mr. Zeiler, is a partner in the law firm of Leve and Zeiler whose practice includes real estate, corporate, commercial and estate work. He was the solicitor for the developer who registered the first condominium in Ontario. Mr. Zeiler has taught for the Ontario Real Estate Association, the Appraisal Institute of Canada and more recently in the Department of Administrative Studies at York University where he lectures in Real Property Law.

Commissioner

Jane Scott, B.A. (Queen's University).

Ms. Scott, has served three consecutive terms as chairman of the Lennox and Addington County Board of Education and was elected president of the Ontario Public School Trustees' Association for the year 1985. As a school trustee Ms. Scott had considerable experience in the field of teacher/board collective bargaining and in education finance. Her teaching experience includes business subjects such as Law, Bookkeeping and Office Practice.

Commissioner

William John McNeil, B.Com (University of Toronto).

John McNeil has had 15 years of experience as a teacher and Vice Principal in North York and 15 years of service as a Field Officer with the Ontario Secondary School Teacher's Federation. His past activities include Presidency of District 13, OSSTF, Governor of the Ontario Teacher's Federation, Advisory Board Member on Provincial Executives of OSSTF and former trustee of the Ontario Teacher's Insurance Plan. He is currently enrolled in the Master's Degree Program in Industrial Relations at the University of Toronto.

APPENDIX B SANCTION RECORD

Sanction Record, 1975-76 to 1986-87

Year/ School Board	Total Sanction Days	Total sanction Days Excluding Work-to-Rule
1975-76 Secondary (6):*		
** Central Algoma	35	35
Kent County	66.5	13.5
** Kirkland Lake	44	44
** Metro Toronto	38	38
** Sault Ste. Marie	46	13
** Windsor	27	26
Year Average	42.7	28.2
	(40.6)***	(32.7)***
1976-77 Secondary (2):		
Peel	44	0
Stor., Dundas, Glengarry	24	24
Year Average	34.0	12.0
RCSS (1):		
Durham	9	9
Year Average	9.0	9.0
1977-78 Secondary (5):		
Essex	16	16
Huron	31	31
Perth	41	0
** Renfrew	73	44
Wentworth	49	16
Year Average	42.0	21.4
RCSS (1):		
Essex	34	34
Year Average	34.0	34.0
1978-79 Secondary (3):		
Haldimand	36	36
Kirkland Lake	30	26
York County	5	2
Year Average	23.7	21.3
1979-80 Elementary (2):		
Brant	22	22
Peel	14	13
Year Average	18.0	17.5
Secondary (3):		
Lambton	39	39
North York	40	0
** Sudbury	56	56
Year Average	45.0	31.7

RCSS (2):		
Frontenac	14	14
Nipissing	18	18
Year Average	16.0	16.0
1980-81 Secondary (3):		
Bruce	40	38
Leeds and Grenville	30	30
Norfolk	48	47
Year Average	39.3	38.3
RCSS (1):		
Essex	9	9
Year Average	9.0	9.0
1981-82 Secondary (2):		
Leeds and Grenville	0	0
West Parry Sound	51	51
Year Average	25.5	25.5
RCSS (2):		
Carleton (OECTA)	19	19
Carleton (AEFO)	11	11
Year Average	15.0	15.0
1982-83 Secondary (1):		
Oxford County	7	1
Year Average	7.0	1.0
1983-84 (0)		
	0	0
1984-85 Secondary (2):		
Hamilton (OSSTF)	39	29
Muskoka	30	30
Year Average	34.5	29.5
RCSS (3):		
Stormont, Dundas and		
Glengarry (AEFO)	9	9
Sudbury	21	21
York Region	22	0
Year Average	17.3	15.0
1985-86 Secondary (3):		
** Wellington (OSSTF)	50	50
Grey (OSSTF)	42	42
Lennox & Addington (OSSTF)	11	8
Year Average	34.3	33.3
RCSS (1):		
Metro	5	5
Year Average	5.0	5.0

1986-87 **Secondary (1):**

Dryden (OSSTF)	33	33
Year Average	33.0	33.0
RCSS (5):		
Frontenac, Lennox & Addington (AEFO, OECTA)	16 (instruct. days elementary)	—
	17 (instruct. days secondary)	
North Shore (OECTA)	23	23
Sault Ste. Marie (AEFO, OECTA)	23	23
Windsor (AEFO, OECTA)	14	14
York Region (AEFO, OECTA)	22	—
Year Average	19.2	20.0

* 11 sanctions if Metro = 6

** An advisement was made pursuant to section 60(1)(h).

*** Average if Metro = 6.

APPENDIX C CHRONOLOGY OF PREVENTIVE MEDIATION

DATE	JURISDICTION	PARTIES	NATURE OF PREVENTIVE MEDIATION
1979	Essex RCSS Bd.	Trustees, Administrators, Teachers	Five meetings to set up ground, rules for negotiations.
1979	Essex RCSS Bd.	Trustees, Administrators, Teachers	Assisted in developing a staffing formula for September 1980
1979	Perth County Bd. of Education	Trustees, Administrators	Chaired committee of teachers on staffing and time-tabling in the secondary schools.
1979	Haldimand Bd. of Education	Trustees, Administrators	Weekend workshop of Relationships by Objectives.
Jan-Feb 1980	Wellington County Board of Education	Trustees, Administrators, Secondary Teachers	Facilitate cooperative bargaining process — 4 sessions totalling 67 hours.
May 1980	Halton Bd. of Education	Trustees, Administrators	Day and one-half workshop on Relationships by Objectives.
June 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Three-day workshop on alternative methods of bargaining; representatives from 6 boards were brought together to discuss pros and cons of various methods.
June 1980	Haldimand Bd. of Education	Trustees, Administrators, Teachers	One-day workshop on communications.
Oct 1980	Lennox & Add. County Bd. of Education	Trustees and Administrators	Day and one-half workshop on Relationships by Objectives.

Dec 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers CUPE	Three-day workshop on Communication Skills.
Dec 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers CUPE	Three-day workshop on Problem-Solving Skills.
Dec 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Three-day workshop on Conflict Management.
Mar 1981	Lambton County Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Two-day workshop on Relationships by Objectives.
Oct 1981	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Two-day Evaluation workshop.
Apr-May 1981	London Bd. of Education	Administrators	Planning new approaches to administration in the 80's (Two one-day sessions).
June 1981	Haldimand Bd. of Education	Trustees, Administrators, Teachers	One-day workshop on communications.
Feb 1982	East Parry Sound Bd. of Education	Administrators, Elementary and Secondary Teachers	One-day workshop to review communication, problem-solving and con- flict management skills establish future goals; develop action steps.
Mar 1982	Essex RCCS Bd.	Trustees, Administrators, Teachers (OSSTF FWTAO, AEFO)	Two-day workshop on communications, problem solving and conflict management skills.

Apr 1982	East Parry Sound Bd. of Education	Administrators, Principals of all Elementary and Secondary schools, selected department heads from the Secondary school, and consultants who serve the system.	Three-day workshop of Leadership, skill development in communications, problem solving, decision-making, and ways to handle conflict.
June 1982	East Parry Sound Bd. Education	Trustees, Administrators, Elementary and Secondary Teachers	Evening session to introduce new trustees and teachers to technical assistance programme.
June 1982	Timiskaming Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Day and one-half workshop on Relationship by Objectives.
Nov 1982	Lincoln Bd. of Education	Trustees and Administrators	Two-day workshop on Relationship by Objectives; familiarize new trustees with the school system operation.
Feb 1983	East Parry Sound Bd. of Education	Internal facilitators, 1 Trustee, 5 Elementary Teachers, 1 Secondary Teacher	Three-day workshop to develop Education internal facilitators.
Feb 1983	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Three-day workshop on communications, problem-solving conflict management, group development, and relationship focusing.

May 1983	East Parry Sound Bd. of Education	Internal facilitators, 1 Trustee, 5 Elementary Teachers, 1 Secondary Teacher, 3 ERC Staff	Learning reinforcement for internal facilitators.
Oct 1983	West Parry Sound Bd. of Education	Trustees, Administrators, Elementary Teachers	Two-day workshop on Relationships by Objectives.
Jan 1984	Atikokan Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Two-day workshop on Relationships by Objectives.
Jan 1984	Welland County Roman Catholic Separate School Board	Trustees, Administrators, Teachers	Two-day workshop on Relationships by Objectives.
May 1984	Canadian Forces Base, Petawawa Bd. of Education	Trustees, Administrators, Elementary Teachers	Two-day workshop on Relationships by Objectives.
Jan 1985	Renfrew County Bd. of Education	Trustees, Administrators, Secondary Teachers	Two-day workshop on Relationships by Objectives
Oct 1985	Red Lake Bd. of Education	Trustees, Administrators, Elementary Teachers	Two-day workshop on Relationships by Objectives
Nov 1985	York Region Bd. Roman Catholic Separate School Board	Trustees, Administrators, Teachers	Two-day workshop on Relationships by by Objectives
Jan 1986	Muskoka Bd. of Education	Trustees, Administrators, Secondary Teachers	Two-day workshop on Relationships by Objectives

Feb 1986	Hamilton Bd. of Education	Trustees, Administrators, Secondary Teachers	Two-day workshop on Relationships by Objectives
Mar 1986	Grey County Bd. of Education	Trustees, Administrators, Secondary Teachers	Two-day workshop on Relationships by Objectives
Apr 1986	Bruce-Grey RCSSB	Trustees, Administrators, Teachers	Two-day workshop on Relationships by Objectives
Apr 1986	Dryden Bd. of Education	Trustees, Administrators, Secondary and Elementary Teachers	Two-day workshop on Relationships by Objectives
Nov 1986	Red Lake Board of Education	Trustees, Administrators, Secondary Teachers	Two-day workshop on Relationships by Objectives
Nov 1986	Sault Ste. Marie Board of Education	Trustees, Administrators, Secondary Teachers	Two-day workshop on Relationships by Objectives

APPENDIX D CHRONOLOGY OF GRIEVANCE MEDIATION APPOINTMENTS, 1980

DATE	PARTIES	NATURE OF ASSISTANCE
June 1980	Provincial Schools Authority and Federation of Provincial Schools Authority Teachers	Issue Resolved
June 1981	Nipissing Board of Education and the Branch Affiliates of FWTAO and OPSTF	Issue Resolved
March 1982	Central Algoma Board of Education and the Branch Affiliate of OSSTF	Issue Resolved
May 1982	Northumberland and Newcastle Board of Education and the Branch Affiliates of FWTAO and OPSTF	No Resolution; Issue went to Arbitration
May 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of OSSTF	Issue Resolved
Sept. 1983	York Region RCSS Board and the Branch Affiliate of OECTA	No Resolution; Issue went to Arbitration
Sept. 1983	Victoria Board of Education and the Branch Affiliate of OSSTF	Issue Resolved; Rejected Dec. 8; Issue went to Arbitration
Sept. 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of AEFO	Issue Resolved; but Rejected by Board October 3, 1984
Oct. 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of OSSTF	Seven Grievances Issues Resolved
Dec. 1983	Haldimand Board of Education and the Branch Affiliate of OSSTF	Two Grievances, one Resolved, one to Arbitration
Dec. 1983	Essex County RCSS Board and the Branch Affiliate of OECTA	Issue Resolved
Jan. 1984	Halton Board of Education and the Branch Affiliate of OSSTF	No Resolution; Issue went to Arbitration

Jan. 1984	Peel Board of Education and the Branch Affiliate of OSSTF	No Resolution
Jan. 1984	CFB Petawawa Board of Education and the Branch Affiliates of FWTAO and OPSTF	Resolved
April 1984	Sault Ste. Marie Board of Education and the Branch Affiliate of OSSTF	Issue Resolved; Rejected by Board
April 1984	Kapuskasing Board of Education and the Branch Affiliate of AEFO	Issue Resolved
June 1984	North York Board of Education and the Branch Affiliates of FWTAO and OPSTF	Agreement to hold Issue in Abeyance
June 1984	Red Lake Board of Education and the Branch Affiliate of OSSTF	Issue Resolved
June 1984	Northumberland and Newcastle Board of Education and the Branch Affiliate of the OSSTF	No Resolution; Issue went to Arbitration
Oct. 1984	Sudbury Roman Catholic Separate School Board and the Branch Affiliate of AEFO	Resolved
Nov. meet; 1984	Timiskaming Board of Education and the Branch Affiliate of OSSTF	Parties unable to Issue to Arbitration
Dec. 1984	Sudbury District Roman Catholic Separate School Board and the Branch Affiliated of OECTA	Resolved
Dec. 1984	Kapuskasing Board of Education and the Branch Affiliate of FWTAO	Resolved
April 1985	Sault Ste. Marie Board of Education and the Branch Affiliate of OSSTF	Resolved
May 1985	Red Lake Board of Education and the Branch Affiliate of FWTAO	Resolved
May 1985	Board of Education for the City of Windsor and the Branch Affiliate of OSSTF	Issue to Arbitration

Oct. 1985	Kenora Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
Oct. 1985	C.F.B. Kingston Board of Education and Branch Affiliate of F.W.T.A.O. and O.P.S.T.F.	Resolved
Nov. 1985	Halton Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
Dec. 1985	Wentworth County Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
Feb. 1985	Hamilton Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
April 1986	Dufferin County Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
May 1986	Windsor Board of Education and Branch Affiliate of O.S.S.T.F.	Not Resolved
May 1986	Sudbury District R.C.S.S. Board and Branch Affiliate of O.E.C.T.A.	Not Resolved
May 1986	Essex County R.C.S.S. Board and Branch Affiliates of A.E.F.O. and O.E.C.T.A.	Not Resolved
June 1986	Wentworth County Board of Education and Branch Affiliate of O.S.S.T.F.	Resolved
Oct. 1986	C.F.B. Kingston Board of Education and Branch Affiliates of FWTAO and OPSTF	Not Resolved
March 1987	Lambton County RCSB and Branch Affiliates of OECTA and AEFO	3 Grievances

APPENDIX E STATEMENT OF EXPENDITURES
APRIL 1, 1986-MARCH 31, 1987

Categories	Budget Allocation \$	Actual Expenditures \$
Salaries and Wages*	612,700	587,477
Employee Benefits*	78,900	71,951
Transportation and Communications		
Communications	19,000	22,536
Mailing	25,000	16,312
Freight	—	—
Relocation Expenses	—	—
Travel Public Servants	47,000	41,706
Travel - Others	162,400	160,797
	253,400	241,351
Services		
Advertising-Print	5,000	9,365
Design	—	—
Rental Services	9,500	6,820
Data Processing	25,000	1,955
Housekeeping	1,500	711
Conference Expenses	30,000	28,597
Commissioners	30,000	26,490
Professional Services	467,800	247,134
Purchasing, Repairs	35,000	40,275
Special Services	40,000	37,982
Job Advertising	—	—
	643,800	471,414
Supplies		
Data Processing)		
Equip./Supplies)	35,000	62,172
Office Furniture	12,000	8,771
Veh.Components, Hardware	—	7
Office Equipment	3,000	958
Lab.Equip./Drugs	—	12
Utilities, Other Supplies	200	0
Office Supplies	19,000	14,922
Books Publications	20,000	32,618
Cloth,Personnel & Health	—	756
Drafting & Exhibits	—	—
	89,200	278,511
BRANCH TOTAL:	1,458,000	1,420,324

* Adjusted per Management Board Order

APPENDIX F SUMMARY OF NEGOTIATIONS 1986-87

Negotiations conducted in accordance with the Act

Total Number of Negotiations Conducted by Boards and Teachers in Ontario	190
Number of Negotiations Not Requiring Formal Commission Assistance	98
Number of Fact Finders Assigned	80
Number of Situations where Mediator Assigned	65
Settlements By Voluntary Binding Arbitration	0
Settlements By Voluntary Final Offer Selection	0

NOTE: In some sets of negotiations both a fact finder and a mediator were assigned.

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